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WILLIAM PINKNEY

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EDITED BY
JARED SPARKS

JOHN STARK

By

EDWARD EVERETT

WILLIAM PINKNEY

By

HENRY WHEATON

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LIFE
OF
JOHN STARK
BY
EDWARD EVERETT

JOHN STARK.

THE great political consequences of the war of the Revolution have thrown into comparative obscurity the previous military history of the British North American Colonies. In reality, however, the military efforts made by those Colonies, not only in the Seven Years' War, but in that of 1744, were of great importance. Large forces were kept on foot; distant and important expeditions were undertaken with success; valuable conquests were achieved; and, on more than one occasion, a very decisive influence on the politics of Europe was exercised by the colonial governments. Great importance would have been attached to these transactions, but for the greater importance and interest of those, which followed so close upon them, in the war of the Revolution. But it is not the least of the reasons, why we ought to study the history of these earlier wars, that they formed in reality the great school, in which the military leaders of the Revolution were trained

Among the eminent pupils of this school, John Stark was, by no means, the least distinguished. His character is one of original strength and resource. He would have risen to consequence and authority, however rude and uncivilized the community in which he had been thrown; and had he been trained in the discipline, and enjoyed the opportunities, of the great armies of Europe, his name would have reached posterity, as a military chieftain of the first rank. In the peculiar social and political condition of the country, allowing an almost indefinite scope for the peculiarities of individual character, the temperament of General Stark prevented his rising decidedly above the sphere of the partisan leader; but he was unquestionably a partisan of the highest character, and rendered services of an importance not easily surpassed, those of Washington out of the question, by any achievements of any other leader in the army of the Revolution. An account of the life of General Stark has been published, as it would appear, by his family, from authentic materials.* This will be our authority for every

* "Reminiscences of the French War, containing Rogers's Expeditions with the New England Rangers under his command, as published in London in 1765; with Notes and Illustrations; to which is added an Account of the Life and Military Services of Major-General John Stark, &c. Concord, N. H., 1831."

thing which belongs to personal history in the following Memoir, and for many matters relative to the military and public career of its subject ; — an acknowledgment which we wish to make in the amplest terms, in the outset, to avoid the necessity of repetition and marginal reference.

JOHN STARK was born at Nutfield, now Londonderry, in New Hampshire, on the 28th of August, in the year 1728. His life began in hardship. His father, Archibald Stark, was a native of Glasgow in Scotland, and emigrated while young to Londonderry in Ireland. In the year 1720, he embarked with a numerous company of adventurers for New Hampshire. These emigrants were descended from the Scotch Presbyterians, who, in the reign of James the First, were established in Ireland, but who professing with national tenacity a religious belief, neither in accordance with the popular faith in Ireland, nor with that of its English masters, and disliking the institutions of tithes and rent, determined to seek a settlement in America. The first party came over in 1718, and led the way in a settlement on the Merrimac river. They were shortly succeeded by a large number of their countrymen, who brought with them the art of weaving linen, and first introduced the culture of the potato in this part of America ; and furnished from their families a large number of the pioneers of civilization

in New Hampshire, Vermont, and Maine, and some of the most useful and distinguished citizens of all these States.

The vessel, which brought over Archibald Stark and his party, arrived in Boston, about the time of the alarm of the prevalence of the small-pox. The account we follow, places it in 1720, and states that the vessel, in consequence of having the smallpox on board, was not allowed an entry in Boston. As 1721 was the year, when the smallpox committed the most formidable ravages in Boston, having been brought in a vessel from the West Indies, it is not unlikely, that the party of Stark arrived in Boston Bay, while the panic produced by the ravages of the disease was at its height. At all events, they were refused permission to land in Boston; and they passed the winter on the banks of the Kennebec in Maine, and near the spot where Wiscasset was afterwards settled. The following year they removed to Nutfield, where they had been preceded by the first emigrating company of their countrymen. Here a permanent and flourishing settlement was founded, which took the name of Londonderry in 1722, in memory of the place of their abode in Ireland.

This place was in advance of the compact settlements, and consequently was exposed to the brunt of Indian warfare, which precisely at this

period was commencing for the fourth time since the first establishment of the English Colonies. A tradition is preserved, that the settlers at Londonderry were occasionally preserved from savage violence, by the interposition of Father Rasles, a French Missionary, established among the Norridgewock tribe of Indians. The particular motive, which prompted the tenderness of this French Catholic toward a settlement of Scotch Covenanters, has not been handed down with the tradition.

John Stark was the second of four sons. In 1736 his father removed from Londonderry to Derryfield, now Manchester. Here John remained in the family of his father till the year 1752. In this year he went upon a hunting excursion to Baker's River in Rumney, in the north-western quarter of the State, and a spot at that time far beyond the range of the English settlements. The party consisted, besides himself, of his elder brother William, and of David Stinson, and Amos Eastman. On the 28th of April, they were surprised by a party of ten Indians of the tribe established at St. Francis. Stark's party had discovered the trail of the Indians two days before; and were preparing, in consequence, to leave the ground. John had separated from his companions to collect the traps; and while thus employed was surprised by the Indians. On

being questioned about his companions, he pointed in the direction opposite to that which they had taken, and thus succeeded in leading the Indians two miles out of the way. His companions unfortunately, becoming alarmed at his absence, and ignorant of its cause, fired several guns as a signal to him. This betrayed them to the savages; who, proceeding down the river below the encampment, lay in wait to intercept their boat, as it should descend. The hunters, suspecting what had happened, were moving down the river, William Stark and Stinson in the canoe, and Eastman on the bank. At sunrise in the morning, Eastman fell into the hands of the savages, who, at the same time, ordered John to hail his brethren in the boat, and thus decoy them to the shore. Instead of obeying this command, John had the courage, after explaining his own situation to his brother and Stinson, to advise them to pull for the opposite shore. They did so, and were immediately fired upon by four of the Indians. At the moment of the discharge, Stark knocked up the guns of two of the Indians; and did the same when the rest of the party fired a second volley, calling to his brother William to make his escape, as the guns were all discharged. This his brother succeeded in doing; but Stinson was killed. For his boldness on this occasion, Stark was severely beaten by the Indians, who, taking

possession of the furs collected by the hunting party, retreated to Coos, near where Haverhill, New Hampshire, now is, and where two of their party had been left to collect provisions against their return. Having passed one night here, they proceeded to the upper Coos (Lancaster), from which they despatched three of their number with Eastman to St. Francis. The remainder of the party spent some time in hunting upon a small stream in this neighbourhood. Stark, confined at night and closely watched by day, was permitted by his new companions to try his fortune at hunting, and, having trapped one beaver and shot another, received the skins as his reward.

On the 9th of June, the party returned to St. Francis, where Stark rejoined his companion Eastman. They were compelled to undergo what is called the *ceremony* of running the gantlet; a use of that term, which modern effeminacy would hardly admit. It was the universal practice of the North American Indians, to compel their captives to pass through the young warriors of the tribe, ranged in two lines, each furnished with a rod, and, when highly exasperated, with deadly weapons, to strike the prisoners as they passed. In the latter case, the captive was frequently killed, before he could reach the council-house, at which the two lines of Indians terminated. On the present occasion, Eastman was

severely whipped, as he passed through the lines Stark, more athletic and adroit, and better comprehending the Indian character, snatched a club from the nearest Indian, laid about him to the right and left, scattering the Indians before him, and escaped with scarcely a blow ; greatly to the delight of the old men of the tribe, who sat at some distance, witnessing the scene, and enjoying the confusion of their young warriors.

Stark and his companion remained some time among the St. Francis Indians, by whom he was kindly treated. He possessed opportunities, which he did not allow to pass unimproved, of studying their manners and customs, particularly in their military excursions. At the end of six weeks, Captain Stevens of Number Four (Charlestown, New Hampshire), and Mr. Wheelwright of Boston, were sent by the General Court of Massachusetts to redeem some of the citizens of that province, who had been carried into captivity. Not finding those of whom they were in search from Massachusetts, they liberally paid the ransom of Stark and Eastman, the former being redeemed for one hundred and three dollars, the latter for sixty. Massachusetts was in the habit of redeeming, from the treasury of the province, her citizens who were carried away captive ; but Stark and Eastman were never repaid by New Hampshire, the sums advanced to them by the Massachusetts

Commissioners. They returned by the way of Albany to Derryfield in New Hampshire, after an absence of about four months.

The unhappy want of political concert between the Colonies at this period is curiously illustrated by the fact, that the party of Indians, who had plundered and captured Stark and his companions, travelled with them to Albany, and there, without molestation, made sale of the very furs, which they had taken from these citizens of a sister province in time of peace ;—for this adventure preceded by four years the breaking out of the war of 1756.

Stark was accustomed, throughout his life, to attach no small importance to this incident in his youthful history. During the three or four months, which he passed among the Indians, he carefully observed their manners and character and acquired a practical knowledge on these points, of great value to a frontier partisan. He appears to have caught the humor of the Indians, and to have known how to approach them on the side of their prejudices. He was ordered by them to hoe their corn. Well aware that they regarded labor of this kind as fit only for squaws and slaves, he took care to cut up the corn and spare the weeds, in order to give them a suitable idea of his want of skill in unmanly labor. As this experiment upon their good nature did not

answer its desired object, he threw his hoe into the river, declaring "it was the business, not of warriors, but of squaws to hoe corn." This spirited deportment gained him the title of young chief, and the honor of adoption into the tribe. He never ceased to recur with pleasure to the incidents of his captivity among the St. Francis Indians, and to maintain, that he received more genuine kindness from them, than he ever knew prisoners of war to receive from any civilized nation. The practice of ransoming the captives had already taken much from the horrors of Indian warfare. Before this practice had rendered the lives of prisoners valuable to the savages, the cruelties inflicted by them on those, who fell into their hands, are known to have been of the most revolting character.

The ill success of this expedition furnished new reasons for undertaking another, the next year, to the head waters of the Androscoggin, in order to raise from the proceeds of his hunting a sum of money to enable him to discharge his debt to the Massachusetts Commissioners. The report, which he brought back from this and his former excursion to the upper Coos country, determined the General Court of New Hampshire to explore it. A company was enlisted for this purpose, under Colonel Lovell, and John Stark was engaged as the guide. They commenced

their march from Concord, on the 10th of March, reached Pierinont on the 17th, and, after passing one day in making observations upon the country, returned to Concord on the 23d. This country, however, was claimed by the Indians, and had never been brought within the acknowledged limits of the English governments. Foreseeing the mischiefs which would result to the Colonies by a forcible occupation of it, on the part of the people of New Hampshire, the Governor of Massachusetts used his influence with the Governor of New Hampshire, to obtain a postponement of the measure. In the year 1754 a report reached the English settlements, that the French were building a fort in this coveted region. A party of thirty men was despatched by the Governor of New Hampshire, with a flag of truce, to remonstrate against this proceeding. John Stark was selected as the guide of the expedition, and conducted the party to the upper Coos, by way of the Little Ox-Bow, being the same route which he had travelled before, as a captive of the Indians. They found no traces of the French in the country, and were the first party from the Colonies, which explored the fertile meadows on the banks of the Connecticut, where the flourishing towns of Haverhill and Newbury are now situated.

In the year 1754, the great Seven Years' War in reality commenced. It grew out of the strug-

gle between the British and the French for the possession of North America. The British having preceded the French in occupying the better portions of the coast, the French turned their attention to the interior ; and made it their object, by means of the St. Lawrence, the Lakes, the Ohio, and Mississippi, and a chain of posts judiciously established along this line of water communication, to prevent the progress of the English westward. The Ohio Company was formed in 1749, and was the first link in the chain of causes, which brought on the rupture. In the year 1754 the memorable project of a union of the Colonies with a view to their defence against the French and Indians was matured at Albany, and signed on the 4th of July ; and on the same day Colonel Washington was obliged to capitulate to the French and Indians at Fort Necessity. A very extensive plan of campaign was projected for the year 1755, consisting of three parts. The first was an expedition against Fort Duquesne, to be conducted by General Braddock with troops from England ; the second was an attempt upon Fort Niagara, to be made by the regular forces raised in the Colonies, and Indians ; and the third was an expedition against Crown Point, to be carried on exclusively by New England troops, raised for that purpose.

A corps of rangers was enlisted in New Hampshire for service in the last expedition, by Robert Rogers, who acquired great reputation as a partisan officer in the progress of the war. Stark's experience on scouting parties obviously fitted him for this service ; and his character was already so well established, that he received a commission as a lieutenant in the regiment, which was commanded by Colonel Blanchard. This regiment was first ordered into the Coos country, and directed to burn the meadows, preparatory to building a fort. But at Governor Shirley's instance, before reaching their place of destination, the order was countermanded, and they were directed to repair to the army assembled against Crown Point, by the way of Number Four and Albany. At the time the troops arrived at headquarters, General Johnson was encamped on Lake George. The New Hampshire regiment was stationed by him at Fort Edward, a position which had been taken up by General Lyman, at the landing-place on the east side of the Hudson. It was the design of General Johnson, about the beginning of September, to move against Crown Point and Ticonderoga, a post about fifteen miles south of Crown Point, which, he had understood, had been fortified by the French. The movement of the Anglo-American army was, however, anticipated by the advance of the Baron Dieskau, the French general.

This officer had lately arrived at Montreal, with a body of French troops. His instructions directed him to reduce the English post at Oswego; but the news of the movement against Crown Point having reached Montreal about the time of the Baron Dieskau's arrival, and having produced alarm there, the Baron was importuned to pass up Lake Champlain with his forces, to resist the advancing Anglo-American army. This was accordingly done; the Baron transported his troops to Fort Frederic (Crown Point), and, having waited there for some time the approach of the English army, resolved to march against them. He accordingly embarked two thousand men in boats from Crown Point, and landing at South Bay marched on towards Fort Edward, where the New Hampshire rangers were stationed. When within two miles of the fort, he communicated his design of assaulting it to his troops. The Canadians and Indians in his army, dreading the effects of the cannon of the fort, were unwilling to make the attempt, but expressed their readiness to march against the main body encamped at the Lake, and, as it was understood, without lines or artillery. On this representation, the Baron changed his course and marched against the camp.

Intelligence meantime had reached the camp, that the French had landed at South Bay, and were marching upon Fort Edward. Two mes-

sengers were despatched by General Johnson to the Fort with this intelligence. One of these messengers was intercepted and killed; and the other returned to the camp with information, that he had discovered the French about four miles to the northward of the Fort. It was resolved, in council of war, to send a strong detachment to the relief of the Fort. A thousand men were detached from the army, with two hundred Indians, for this service, and placed under the command of Colonel Ephraim Williams, a brave Massachusetts officer. Baron Dieskau had posted his troops advantageously in a defile. Deceived by the small number of men apparently opposed to him, the ardor of Colonel Williams and his troops betrayed him into an ambuscade. Baron Dieskau had reserved his regular troops in the centre for the main attack, and ordered the Canadians and French to enclose the Anglo-Americans on the flanks. The Baron, with a view to a complete surprise, had ordered the Canadians and Indians to reserve their fire, till they should hear the attack of the main body in the centre. Hendricks, the Mohawk chief, attached to Colonel Williams's party, perceived the approaches of the Canadian Indians, and brought on the engagement. It was severe, and bravely contested; but the French force being nearly double of the Anglo-American, the latter was obliged to retreat,

with the loss of Colonel Williams, the gallant officer in command, and of Hendricks, the Mohawk chief. M. de St. Pierre, the French officer in command of the Canadian Indians, was also killed. The loss was considerable on both sides.

We trust we shall be pardoned for pausing a moment in the narration, to pay a deserved tribute to the memory of Colonel Ephraim Williams.

He was a native of Newton, near Boston; but his father, Colonel Ephraim Williams the elder was one of the earliest settlers of Stockbridge. Colonel Williams the son, being of an adventurous disposition, for several years in early life followed the seas. In his different voyages to Europe, he visited England, Spain, and Holland, and acquired the information and accomplishments of an observant traveller. Having, at the request of his father, determined to establish himself at home, and possessing a decided military taste, he entered the army enlisted for the war (that of 1744), then raging between England and France, and commanded a company raised in New England on what was called the Canada service. He was afterwards placed in command of the line of Massachusetts forts, on the west side of Connecticut river. While he held this command, his principal station was Fort Hoosac, on the bank of the Hoosac river, in the present town of Adams, about three miles and a half east of

Williamstown. There was also a small fort at Williamstown, under his command. The first settlements, in this part of the country, grew up under the protection of these forts. Colonel Williams was the witness of the efforts, the hardships, and the perils of the early settlers; and, forming a just anticipation of the future importance of this part of the country, he conceived the design of making provision for the means of education in this quarter of the Commonwealth.

After the peace of Aix-la-Chapelle in 1748, Colonel Williams resided chiefly at Hatfield, in the county of Hampshire. On the breaking out of the war in 1755, his high military character obtained him the command of a regiment, which was attached to the army under General Johnson, destined against Crown Point. While at Albany, on his way to head-quarters, a presentiment of his approaching fate seems to have taken possession of him, and on the 22d of July, 1755, he made his will. He fell by a musket-shot through his head, on the memorable 8th of September, in the engagement already spoken of. He was at this time scarcely passed forty years of age. His person was large and commanding. He had a strong taste for books, and habitually lamented the want of an academical education. His address and manners were remarkably engaging. In the general Court of Massachusetts, he possessed a greater personal influence than

any other individual, and in the army he was beloved by the soldiers. Having no family, he appropriated, with wise liberality, the greater part of his property to the foundation of "a Free School in a township west of Fort Massachusetts." The property bequeathed was not very large; but, by judicious management, by legislative aid, and private subscriptions, it proved adequate to the establishment of the Free School, subsequently the College, situated in Williamstown; which has long enjoyed a high character among the institutions for education in the country, and will transmit the name of its gallant, patriotic, and unfortunate founder, in grateful and enduring remembrance.

The fortune of the day, disastrous at first to the Anglo-American army, by the loss of Colonel Williams and the repulse of his detachment, was soon reversed. The retreating troops were met by a party sent out to their aid, and, falling back with them on the main body, awaited the approach of the enemy on the borders of the Lake. Johnson was advantageously posted. A deep, woody swamp covered his flanks, and in front, behind a breastwork of trees, he had mounted several cannon, opportunely received from Fort Edward two days before. This fact had escaped the observation of the French spies. The army of Baron Dieskau came to a halt; the retreating Provincials recovered their spirits, and opposed a manful resistance to

the approaching enemy. The Canadians and Indians were dismayed at the appearance of artillery within the breastwork, and, at the first discharge of the cannon, fled to the swamps. They were soon followed by the main body in a disorderly retreat. The American army instantly pursued, and completed the rout of the enemy. The Baron himself, wounded in the leg, was found leaning on the stump of a tree entirely alone, on the field where, but a few hours before, he had commanded an army flushed with success. While feeling in his pocket for his watch, to surrender it to the soldier who had surprised him, the latter, supposing him to be in search of a pistol, discharged his musket at him, and gave him a wound, which eventually proved mortal. He lived however to reach England. This soldier is believed to have been General Seth Pomroy of Northampton.

Baron Dieskau was conducted a prisoner to the English camp ; and, the pursuit not being continued, the remains of his army rallied upon the precise spot, where the party of Colonel Williams had been defeated in the morning. At this juncture a detachment of the New Hampshire troops at Fort Edward, about two hundred strong, on their march to the relief of the main body, fell in with the remnants of the French army and put them completely to rout. Captain McGinnis, the brave commander of the party, unfortunately lost his life in the moment of victory.

Thus were fought on the same day, and upon the same field, three several battles, with the loss of three commanders, and an Indian chief. General Johnson himself was wounded. The hill overlooking the defile, where Colonel Williams met his fate, is still called French Mountain; and the spot on which he fell is known as Williams's Rock. Close by the road, and on its north side, is a circular pond, two or three hundred feet in diameter, shaped like a bowl, into which the dead bodies of both parties were thrown in undistinguished confusion. From that day to the present, it has borne the name of the *Bloody Pond*.

Such was the introduction of Stark to the perils of regular warfare; and with the momentous events of this day the campaign began and closed. The advantages gained by General Johnson, who was created a baronet for his success, were not followed up by the pursuit of the original objects of the expedition; and with the exception of six hundred men who were retained to garrison Fort Edward and Fort William Henry, which was built on the shore of Lake George and near the site of Johnson's encampment, the army was discharged. Colonel Blanchard's regiment was among those disbanded, and, with the other officers composing it, Lieutenant Stark returned home.

It was, however, but for a brief enjoyment of the repose of private life. Although the leading

operations of the war were suspended by the season, it was judged expedient, that a full company of rangers should be attached to the garrisons, left at the forts between Lake George and the Hudson. Major Rogers was employed by Governor Shirley to recruit such a company, which he did principally in New Hampshire ; and such was his confidence in Stark, that he bestowed on him again the commission of second lieutenant. By the express directions of Governor Shirley, none were to be enlisted in this corps, but men accustomed to travel ling and hunting in the woods, and men in whose courage and fidelity entire confidence could be placed. The Journal of his service with these rangers was published by Major Rogers in 1765, at London, and presents an exceedingly interesting view of their severe and perilous warfare. Their duty was to reconnoitre the hostile posts and armies, to surprise straggling parties, and obtain prisoners, to effect diversions by false attacks, to serve as guides and couriers. They acted in a corps independent of the line of the army, under their own officers, and with their own regulations, as prescribed by their gallant leader, and still preserved in his Journal alluded to. It was made their duty, by their instructions, “from time to time, to use their best endeavours to distress the French and their allies, by sacking, burning, and destroying their houses, barns, barracks, canoes, and batteaux, and

oy killing their cattle of every kind ; and at all times to endeavour to waylay, attack, and destroy their convoys of provision by land and water, in any part of the country where they could be found."

Majors Rogers divided his corps. A part of it marched under Lieutenant Richard Rogers to Albany, and the other half, under his own immediate command, directed their line of march by the way of Number Four. Shaping their course from this place toward Crown Point, they pursued their way "through vast forests and over lofty mountains." On the second day of the march, Lieutenant Stark fell sick, and was obliged, with a guard of six men, to repair to Fort Edward. On their way to the fort, they fell in with and eluded a scouting party of four hundred hostile Indians.

The Journal of Major Rogers above mentioned, details the operations and adventures of his corps during the season, and cannot be perused without lively interest ; but our limits compel us to pass briefly over them. So important were the services of the corps of rangers, that it was judged expedient by General Abercromby, who superseded Governor Shirley in the command, to double its numbers. A new company was accordingly raised, and placed under the command of Richard Rogers brother of the Major. The place of first lieutenant in the old company, being thus vacated, was filled by the promotion of Second Lieu-

tenant Stark. In the month of August, a company of Stockbridge Indians, led by officers of their own tribe, commissioned by Governor Shirley, was taken into the service and acted occasionally in connexion with the rangers, whose skill as woodsmen was in no degree inferior to that, which was possessed by these natives of the forest. Early in August, the Earl of Loudoun took the command. By his direction, the rangers departed on a scouting expedition in two parties, one headed by Rogers and the other by Stark, in which they ascended Lake Champlain a considerable distance reconnoitring the enemy's positions, and lying in wait for straggling parties. They did not return to the fort, till the end of September. From this time to the close of the season, the rangers were on continual service, exploring the woods, procuring information, and bringing in prisoners. On the 19th of November they made an excursion for six days, down the lake. Captain Abercromby, aid-de-camp and nephew of the General, had the curiosity, notwithstanding the severity of the season in this high latitude, to accompany the party. Nothing was effected in a military way, beyond obtaining a sight of the French garrison at Crown Point ; but the young officer was delighted with the novelties of the scout, and with the romantic and noble scenery, through which the rangers conducted him. At the close of the season

the troops were principally drawn off to Albany ; but the rangers remained on duty at Forts William Henry and Edward. They were joined, at the end of the year, by two additional companies of rangers from Halifax, under Captains Hobbs and Spikeman.

Early in January, 1757, a party of the rangers was detached on an expedition down the Lake, which ended in an engagement of great severity, in which we behold clear indications of the future hero of Bennington. On the 15th of January, a party consisting of Major Robert Rogers, his Lieutenant, John Stark, Ensign Page of Richard Rogers's company, and fifty privates, marched from their station at Fort Edward to Fort William Henry, where they were employed two days in preparing snow-shoes and provisions for their excursion. They were joined on the 17th by Captain Spikeman, and sixteen officers and men from his company ; by Ensign Rogers, with two men of Captain Hobbs's company, and a volunteer of the 44th Regiment. The party proceeded down Lake George on the ice, and at night encamped on the east side of the First Narrows. Some of the men, lamed by the exertions of the first day, were obliged to turn back ; and the party was thus reduced to seventy-four men, officers included. The march was continued for the three succeeding days, on the Lake, and on the land by means of

snow-shoes. On the twentieth they encamped at night, within three miles of Lake Champlain. On the twenty-first day they marched in an easterly direction, till they reached the Lake, half way between Crown Point and Ticonderoga, when they discovered a sled, passing on the ice from the former to the latter. Lieutenant Stark, with twenty men, was ordered to intercept the sled in front. Major Rogers, with another party, threw himself in the rear, to cut off its retreat, leaving Captain Spikeman with the centre. Rogers from his position soon discovered ten other sleds passing down the Lake, of which he endeavoured to apprise Stark, before he should show himself on the ice, but without success. The moment Stark was seen, the sleds hastily turned back toward Ticonderoga. Rogers's party pursued them, took seven prisoners, three sleds, and six horses; the rest escaped. From their prisoners they learned, that there was a large body of French troops, Canadians and Indians, at Ticonderoga, who were amply supplied with provisions, and equipped for service at a moment's warning.

Not doubting, from this information, that the news of their presence in the neighbourhood would be carried by those who had escaped, and would cause them to be immediately pursued, Major Rogers gave orders to his party to retreat with all expedition to the station they had occupied

the night before, where their fires were still burning, and to prepare for battle by drying their guns, as it was a rainy day. They commenced this march in the rangers' manner, single file, the Major in front and Lieutenant Stark in the rear.

In this manner they passed a mile over broken ground and crossed a valley fifteen rods in breadth, when the front, having gained the summit of the opposite hill on the west side, fell in with the enemy drawn up in the form of a crescent, with a view to surround the party of rangers. At the moment of making the discovery, Major Rogers's party received the discharge of the enemy at least two hundred strong, and at a distance of not more than five yards from the nearest and thirty yards from the rear of the party. The first fire proved fatal to Lieutenant Kennedy and a private, and wounded several, among others Major Rogers himself in the head. Major Rogers ordered his party to retreat to the opposite hill, where Lieutenant Stark and Ensign Brewer, who commanded the rear, had already posted themselves, to cover the retreat. Rogers was closely pursued; Captain Spikeman and some others were killed, and several were made prisoners. But the steady fire, kept up by Lieutenant Stark and his men from the hill, by which a number of the enemy were killed, enabled Rogers and the survivors of his party to place themselves to advantage. A hasty disposi-

tion was then made, by the reduced band of rangers. Stark with Ensign Rogers took a position in the centre; Sergeants Walker and Phillips, (the latter a half-breed,) acting on the reserve, to protect the flanks, and watch the enemy's motions. They were scarcely formed, before the French attempted to flank them; but a prompt and vigorous fire from the reserve drove back the flanking party with loss. A formidable assault was then made in front; but the rangers, having the advantage of the ground, and being sheltered by large trees, from which they kept up a continual fire, repelled the attack. Another attempt was made to surround the rangers, but without success.

In this manner the action, which began at two o'clock in the afternoon, was kept up till sunset, when Major Rogers received a wound through his wrist, which prevented him from holding his gun. It is related, on the authority of Eastman of Concord, New Hampshire, who was a private in Stark's command in the action, that when Major Rogers received his second wound, he was inclined to order a retreat. Lieutenant Stark, then almost the only officer not wounded, declared that he would shoot the first man who fled, that they had a good position, and he would fight till dark and then retreat; and that in this course lay their only chance for safety. At this moment, the lock of his gun was broken by a shot from the enemy;

but, seeing a Frenchman fall at the same time, he sprang forward, seized his gun, and continued the action. Shute, another private in the party, of Concord, New Hampshire, lately deceased, was struck by a ball in the head and made senseless, about the time that Rogers was wounded in the wrist. On coming to himself, he perceived one of the party engaged in rather a singular operation of surgery. He was cutting off Major Rogers's queue to stop the hole in his wrist, through which the ball had passed.

The enemy used every artifice to induce the rangers to submit. He assured them, at one time, that large reinforcements were at hand, by whom they would be cut to pieces without mercy, and that if they surrendered they should be treated with kindness. He called on Rogers by name, and assured him of his esteem and friendship, and expressed his regret that his brave companions in arms should persist in maintaining the contest, at the hazard of certain death. But these blandishments were as unavailing as the superior physical power of the enemy; and, after Major Rogers's second wound had disabled him, the contest was kept up by Lieutenant Stark with equal bravery and conduct, till at the approach of night the fire of the enemy ceased, and the rangers were able to take up their retreat in safety.

The rangers were much weakened by the loss of men killed, and they had a great number too severely wounded to travel without extreme difficulty and the assistance of their comrades. Still, however, they were so near the French fort, that it was deemed absolutely necessary to make the best of their way during the night. Perceiving a large fire in the woods, which they supposed to be that of a hostile party, they made a long circuit in the night, and found themselves in the morning six miles south of the advanced guard of the French, on Lake George. The wounded were unable to advance farther on foot, and they were still forty miles from Fort William Henry.

In this distressing state of affairs, Lieutenant Stark volunteered with two of his men, to proceed to the fort and return with sleighs for the wounded. The snow was four feet deep on a level, and could be traversed only in snow-shoes. Notwithstanding their efforts and exhaustion the preceding day and night, Stark and his companions reached the fort, at a distance of forty miles, by evening. They got back to their companions with a sleigh and a small reinforcing party by the next morning. The party, reduced to forty-eight effective and six wounded men, with the prisoners they had taken from the convoy, reached the fort in safety the same evening.

Before the sleigh came to their relief, the party, looking back upon the ice, saw a dark object following them. Supposing it might be one of their stragglers, the sleigh, on its arrival, was sent for him. It proved to be one of their party (Joshua Martin of Goffstown, New Hampshire), whose hip-joint had been shattered by a ball, which passed through his body. He had been left for dead on the field of battle, but recovering himself, he had kindled a fire in the night; and, thus being kept from freezing, was enabled to drag himself after them to the Lake. This was the fire, which the retreating rangers had supposed to belong to a hostile camp. The loss of time occasioned by the circuitous line of their retreat enabled Martin, badly wounded as he was, to overtake them. He was so exhausted, that he sunk down the moment the relief reached him. He was transported, with his disabled comrades, to the fort, recovered from his wounds, served through the war, and died at an advanced age at Goffstown.

In this severe affair, the rangers, out of seventy-eight men, had fourteen killed, six wounded, and six taken prisoners. The force of the enemy engaged amounted to two hundred and fifty, of which, according to a statement subsequently made by the enemy to Major Rogers, one hundred and sixteen were killed or mortally wounded. A large share of the honor of the day unquestionably be-

longs to Stark. After the first partial success against the convoy, it was recommended by the council of officers to retreat, by a different route from that by which they came; a settled practice of warfare borrowed by the rangers from the Indians. Had they pursued this prudent course, they would have escaped the battle. Rogers, however, rendered confident by a long series of successful adventures, and relying on the terrors, with which his rangers had inspired the enemy, declared that they would not *dare* pursue him, and took the same route back. The valor and resolution of Stark and his division of the little party evidently saved the whole band from destruction, when they fell in with the overwhelming force of the enemy. After Captain Spikeman was killed and Rogers was disabled by his wounds, Stark's fortitude and perseverance prevented the party from throwing away their lives, in a panic flight before a victorious enemy; and, by volunteering to travel forty miles on snow-shoes and accomplishing the journey in a day, after the toils of the preceding days and nights, he brought off the wounded in safety. On the reorganization of the corps, Stark received the justly merited promotion to the rank of Captain, in the place of Spikeman, who was killed. The whole party were honorably noticed by the commander-in-chief.

In the month of March, 1757, Fort William Henry was saved by the forethought and vigilance of Captain Stark, then, in the absence of Major Rogers, acting commander-in-chief of the rangers. While going the rounds on the evening of the 16th, he overheard some of his rangers, planning a celebration of St. Patrick's (the following) day. A large portion of this corps were, like himself, of Irish origin. Knowing that there were also a great many Irish among the regular troops, he justly foresaw the danger, to which the post would be exposed, at the close of a day to be spent in excess and intoxication. He accordingly gave directions to the sutler that no spirituous liquors should be issued, except by authority of written orders from himself; and when applied to for these orders, he pleaded the lameness of his wrist, produced by a wound, as an excuse for not giving them. In this way he kept the rangers sober. The Irish troops of the regular army, forming a part of the garrison, celebrated the day with the usual license and excess. The French, acquainted with the Irish custom, and calculating upon the consequent disability of the garrison, planned an attack for that night. They were, however, repulsed by Stark's sober rangers, while the stupefied regulars were coming to their senses.

In the month of April, Stark's company of rangers, with several others, was ordered from

the position on the lakes, to Albany and New York, whence it was embarked for Halifax, as a part of the expedition, against that place, under the Earl of Loudoun. Captain Stark himself, being on a scouting party at the time the troops broke up from their quarters, did not rejoin his company till it reached New York. He was there seized with the smallpox, and thus prevented from proceeding to Halifax. At the close of the season, his company was again ordered to its old position on the lakes, and was rejoined by him at Albany. During the winter, he was stationed at Fort Edward. Fort William Henry had capitulated to the French in the course of the summer, and many of the unhappy prisoners of war experienced the fate, too often attending capitulation to an army composed in part of savages. They were dragged from their ranks and tomahawked, in the sight of the French officers.

The force of rangers was very much increased for the year 1758, by the enlistment of four new companies of a hundred men each, and a company of Indians to be employed in the ranging service. The four companies were promptly enlisted in New England. This increase of force formed a part of the prodigious military effort, made both by the British government and the Colonies for the approaching campaign. Bent on the acquisition of Canada, at whatever cost, the governments

on both sides of the Atlantic made exertions unparalleled in former wars. Massachusetts resolved to raise seven thousand men, Connecticut five thousand, and New Hampshire three thousand ; a force which, in proportion to the population, would have been deemed very great in France, under the government of Napoleon. The Earl of Loudoun having returned to England, General Abercromby was intrusted with the command-in-chief of the entire forces in the field, amounting in troops of all descriptions to fifty thousand men, the largest army, which had ever been arrayed in America.

Captain Stark remained with his company of rangers at or near Fort Edward, actively engaged in the arduous duties of that service. A severe action was fought on the 13th of March, by a detachment of about one hundred and eighty men under Major Rogers, against six hundred French and Canadians. A portion of Captain Stark's company was detached on this unequal service, but he himself was not included in it. On the retreat of the remnant of the brave but overmatched party, he was sent out with a small band, to aid their return.

The force collected for the expedition against Ticonderoga was about sixteen thousand men, and on the morning of the 5th July, 1758, it was put in motion, in batteaux, to descend Lake George.

· The order of march," says Major Rogers, in his Journal, "exhibited a splendid military show." The regular troops occupied the centre, and the provincials the wings. For the advanced guard, the light infantry flanked the right, and the rangers the left, of Colonel Broadstreet's batteau men.

In this order the army proceeded until dark, down Lake George, to Sabbath-day Point. Here it halted to refresh. On this momentous evening, in expectation of the impending battle, Lord Howe invited Captain Stark to sup with him in his tent. With that amiable familiarity which endeared him to the army, this gallant and lamented nobleman, reposing upon a bear-skin (his camp-bed), with the brave partisan from the wilds of New Hampshire, conversed with him on the position of the fort and the mode of attack. The imagination of the young and high-bred officer, fresh from the gay circles of the British court, could not but be impressed with the grandeur and solemnity of the scene, as they moved with their mighty host, beneath the darkness of night, across the inland waters of this untrodden wilderness. After a few hours of repose, the march was resumed. Lord Howe led the van in a large boat, accompanied with a guard of rangers and boat-men. Lieutenant Holmes was sent forward to reconnoitre the landing-place, and ascertain if the enemy were posted there. He returned at daybreak to the army, then off the

Blue Mountain, within four miles of the landing place, which he reported to be in possession of the French, as he discovered by their fires. At day break, Lord Howe proceeded with a few officers to within a quarter of a mile of the landing, to make a personal *reconnoissance*. He found it in possession of the enemy, and returned to aid in the landing of the troops below.

The landing was effected by noon of the 6th, and the **rangers** were posted on the left wing. After the fatal lesson of Braddock's defeat, the British generals learned the necessity of clearing the woods before the main body, by throwing out the rangers as a flank or advanced guard. On the present occasion Major Rogers was directed to open the way from Lake George to the plains of Ticonderoga. This route was intersected by a creek, crossed by a bridge, which was to be passed by the advancing army. Rogers led the van of the rangers, and Stark their rear, two hundred strong. On approaching the bridge, Rogers perceived it to be occupied by Canadians and Indians. He came to a halt, for a few moments, by which the rear, in full march under Stark, was thrown upon the front. Stark, not comprehending or heeding the cause of the halt, declared "it was no time for delay," and pushed forward to the bridge. The enemy fled before him, and the passage was

eft free to the advancing columns. Lord Howe commanded the centre. At the head of his columns, he fell in with a part of the advanced guard of the enemy, which had lost its way in the woods, on the retreat from Lake George. He immediately attacked and dispersed it; but, exposing himself with too much eagerness, he fell at the first fire of the enemy.

This gallant nobleman was in the thirty-fourth year of his age, of the most promising military talents, and greatly endeared by his estimable qualities, to both the British and provincial troops. The General Court of Massachusetts, from respect to his memory, appropriated two hundred and fifty pounds sterling, for the erection of his monument in Westminster Abbey. He was the brother of Sir William Howe, who commanded the British army, in the war of the Revolution. Stark was warily attached to Lord Howe; and had attracted no little of his notice. They were nearly of an age, and Lord Howe had occasionally joined the midnight scouts of the rangers, to learn their modes of warfare and acquire a knowledge of the country. His death was deeply felt in the army, and by none more truly deplored than by Stark; who lived, however, to find a consolation for the untimely fate of his noble friend, in the reflection, during the progress of the revolutionary war, that, had he lived

his talents would have been exerted against the patriotic cause.

With this inauspicious event commenced a series of disasters to the British arms. No further progress was made on the 6th; the advanced parties of the American army were called in, and the French kept themselves within their intrenchments. On the morning of the 7th, the American army was again in motion. The rangers were ordered to the post which they had occupied the day before, and Captain Stark, with a strong detachment from the corps, was sent forward, with the aid of the general-in-chief and the chief engineer, to reconnoitre the fort. In the course of the day, the whole army was moved up to the Saw-Mills, the advanced post of the rangers. The party of Captain Stark returned from their *reconnaissance* in the evening, and the whole army passed the night on their arms. All the accounts, as well of the reconnoitring party, as of the prisoners, agreed in representing the force of the French, commanded by the Marquis de Montcalm, as greatly inferior to the English. It consisted of six thousand men, of which eight battalions were regular troops; the rest Canadians and Indians. They were encamped before the fort, and were busily occupied in intrenching themselves behind a breast-work of large trees, felled and piled together to the height of eight or

nine feet, so as to present a front of sharpened branches and interwoven limbs, almost impervious to an advancing enemy. Three thousand men, principally Canadians and French, had been detached by the Marquis de Montcalm to the Mohawk River, to assist the operations in that quarter; but these had been recalled, on the advance of the English, and were expected every hour.

Nothing but an apathy and indecision, difficult to be conceived, sufficiently explain the tardiness of the British movements. Contemporary writers ascribe it to the incapacity of the commander-in-chief, General Abercromby. Stark was ever of opinion, that the disasters of the expedition were in no small degree owing to the fall of Lord Howe. If the British army, after a sufficient *reconnoissance* of the ground, had pushed on at the moment of landing, and before the French, who were without artillery, had had time to intrench themselves within a formidable breastwork of trees, the success of the attack cannot be doubted. But the delay was fatal. On the morning of the 8th, the army was again in motion. At sunrise Sir William Johnson arrived, with a party of four hundred and forty Indians. At seven the troops moved forward, Stark's division of rangers in the van. His lieutenant led the advanced guard, which, within three hun-

dred yards of the intrenchments, was fired upon by a party of French of two hundred men in ambush. The remainder of the rangers came up to support their comrades, and the enemy were driven in. The light infantry now moved up to the right of the rangers, and the batteaux-men to the left, and continued to skirmish with the advanced parties of the enemy, but without the loss of a man.

While the rangers were thus employed, the main body of the army was forming. At ten o'clock the rangers were ordered to drive in the advanced parties of the enemy, preparatory to a general assault. This service was gallantly performed, and a party of the regular troops moved up to the breast-work. The obstacles which impeded the advance, and the height of the breast-work, did not prevent the attempt to scale it; but Major Proby, who led the pickets engaged in this perilous service, was killed within a few yards of the works. The attempt was repeated several times for four hours. But the trees, which had been piled up on their approach, broke the advancing columns; it was found impossible to carry the breast-work; and the general-in-chief ordered a retreat. It was the duty of the rangers to be the last, as they had been the first, at the post of danger; and Major Rogers and Captain Stark were employed till late

in the evening, in bringing up the rear. There fell on this disastrous and bloody day, five hundred regulars killed and twelve hundred wounded, of the provincials, one hundred killed and two hundred and fifty wounded; leaving the British army still at twice the French force. Notwithstanding this, a precipitate retreat was ordered; the attempt on the fort was abandoned; and by evening the next day, the whole army had returned to their camp, at the south end of Lake George. Here the troops received the thanks of the commanding general, for their good behavior; compliment which certainly it was not in the power of the army to return to the Commanding General.

No further attempt was made upon Ticonderoga the present season. The disgrace of this repulse was partly redeemed by the success of an expedition against Fort Frontenac, by a party of three thousand, detached under Colonel Broadstreet to the Mohawk. No general operations were attempted by the main army, and the brunt of the service fell upon the rangers, who were engaged in their accustomed duty in observing the enemy, reconnoitring his posts, watching his movements, and waylaying his foraging parties.

Severe battles were frequently fought on these occasions. On the 8th of August an affair of more than ordinary importance took place. A

party of rangers and regulars, amounting in the whole to five or six hundred, had been employed to scour the woods. On their return, they were met by a party of the enemy of about equal force. In the progress of this action Major Israel Putnam, commanding a company of rangers, fell into the hands of the enemy. He was tied to a tree by the Indians, and for a long time was within the fire of both parties, and otherwise exposed to peril and outrage from the savage foe. The particulars of this occurrence, with the subsequent captivity and sufferings of Putnam, form one of the most extraordinary and romantic incidents in American history, and will be particularly narrated in another volume of this work. The field was obstinately contested on both sides. Four several charges were made by the enemy on the rangers ; but officers and men maintained their ground with singular firmness and intrepidity, and at the end of an hour the enemy broke and dispersed. About one tenth of the Anglo American party were killed, wounded, and missing ; but of the latter, twenty-one came in the next day.

At the close of this campaign, Captain Stark obtained a furlough ; and returning home was married to Elizabeth Page, daughter of Captain Page of Dunbarton. In the spring a new enlistment of rangers was made in New Hamp-

shire, and Captain John Stark was again found at the seat of war, at the head of his company. Sir Jeffery Amherst, who, at the close of the last campaign, had distinguished himself by the capture of Louisburg, was now advanced to the chief command of the forces on the Canadian frontier. The plan of the campaign aimed at the acquisition of the entire possessions of France on the American continent. The expedition against Quebec, a leading feature of the plan, consisted of two parts. General Wolfe, with a large force assembled at Louisburg, was to move up the St. Lawrence ; and Sir Jeffery Amherst, after effecting the reduction of Ticonderoga and Crown Point, was to proceed by Lake Champlain and the St. John's into Canada, and unite his arms with those of General Wolfe under the walls of Quebec.

The plan was admirably conceived, and ample means seem to have been at the command of Sir Jeffery Amherst to effect his part of it. But the evil genius of delay appeared to control his movements. It was the 22d of July, before he was prepared to cross Lake George, and move upon Ticonderoga. Captain Stark, as usual, was in the advance with his rangers. The plan of attack was pretty nearly the same as that of the preceding year ; but the forces of the enemy being withdrawn to Quebec, the garrisons were

not sufficiently strong to resist the English army, and successively retreated, without a battle, from Ticonderoga and Crown Point.

Instead of pursuing his success and moving up the lake, Sir Jeffery Amherst deemed it necessary to intrench himself in this quarter, till he could be assured of a superiority on the water, and eventually went into winter-quarters, without making any effort to unite his forces with those of General Wolfe. To this failure on his part, all the embarrassments of that gallant officer's movements before Quebec were ascribed.

As soon as he had taken up the station at Crown Point, General Amherst directed Captain Stark, with two hundred rangers, to open a road from that post to Number Four, on the Connecticut River, a distance of about eighty miles, through an almost pathless wilderness. In consequence of being employed on this arduous service, he was spared the painful necessity of joining Major Rogers, in his expedition against the St. Francis Indians, in which their settlement was burned, and a large portion of the tribe destroyed. This tribe, from its position on the frontier, had, from the earliest settlement of the country, been employed by the French as instruments of havoc and desolation, for the purpose of striking terror into the minds of the British colonists, and preventing their extension to the

north and west. The whole border was filled with traditions of massacre, plunder, and captivity worse than death, suffered by the inhabitants at the hands of the St. Francis Indians ; and now that it was necessary to open the road to Canada, there were no compunctious visitings of conscience, to avert the fate of this feared and hated tribe.

The expedition against them by Rogers, with a detachment of the rangers, was conducted with singular boldness and success ; and the sufferings of his party, on their return, seem almost to exceed the capacity of human endurance. Captain Stark, as we have seen in the early part of this Memoir, had experienced a great deal of kindness from these Indians, during his captivity among them in his youth. His frankness and intrepidity won their favor, and he was adopted as a young warrior into their tribe. He never forgot, through life, the kindness he then received from them ; and although, during the war, of which we have been narrating some of the incidents, he was continually engaged with their hostile scouting parties, he rejoiced, that his detachment upon another service spared him the painful necessity of assisting in their destruction.

After completing the road from Crown Point to Number Four, the army being withdrawn to winter-quarters, Captain Stark returned home. In the spring of 1760, he received orders from Sir

Jeffery Amherst, to direct the recruiting service in the province of New Hampshire. As he does not appear to have been attached to the corps of rangers, which was marched into Canada in the course of the campaign of this year, it is probable he was stationed during the summer at Crown Point.

The events of this year brought the war, in this part of America, to a close. A portion of the rangers were ordered to Detroit, to engage in the military operations in that quarter; but Stark, who had formed domestic relations, deemed himself justified in retiring from the service, to which he had already devoted some of the best years of his life, and of which the substantial objects had been attained, in the reduction of Canada. In addition to this consideration, discontents existed in the minds of the provincial troops. Their officers had reason to complain of the preference claimed and enjoyed by the officers of the British army. The superiority, arrogated by regular troops over colonial forces and especially militia drafts, appeared in its most offensive form on the part of the young Englishmen, who held important commands in the English army, and who manifested toward the Americans the offensive hauteur, which forms so conspicuous a trait in their national character. The rustic manners and uncouth appearance of the provincial corps, many of whom came fresh from the

plough and the workshop to the camp, furnished constant matter of ridicule to the young men, who had received their military education in the drawing rooms of London. To men like Stark, who had passed their youth amidst the hardships of a frontier life, who had served with bravery, conduct, and success, in many a severe campaign, and who felt conscious that they possessed the substantial qualities of the officer, proved in all the hardships and achievements of the actual service, this arrogant assumption of the young men, who had purchased commissions in the English army, was intolerable. He retired from the service, however, in possession of the good will of General Amherst, who, in accepting his resignation, assured him of the continuance of his protection, and promised him that he should resume his rank in the army, whenever he chose to rejoin it.

This it is very likely he would have done, had the war continued; but the restoration of peace left him to the undisturbed pursuit of his private occupations. No event is recorded of public interest, in his life, during the period, which elapsed from the close of the Seven Years' War till the commencement of the Revolution. When the controversy assumed a decided form and seemed drawing to a crisis, a portion of the American officers, who had served with success and honor

in the British army, were drawn, partly it may be supposed under the influence of habits of military subordination, to espouse the royal side. They could not, as men who had received commissions in the British army, who were still in the receipt of their half-pay on the peace establishment, and had been brought up in the habits of uninquiring acquiescence, which belong to military life, conceive of a state of things in which they could lawfully turn their arms against their sovereign. Under the influence of these feelings, Major Rogers, the famous chief of rangers, under whose command Stark had served in the Seven Years' War, having passed the greater portion of his time in England after the peace of 1763, was induced, on the commencement of hostilities in 1775, to adopt the British side. In like manner, William Stark, the elder brother of the hero of our narrative, in no degree his inferior in courage and hardihood, but possessed of less of the moral firmness of the patriot soldier, was lost to the cause of the Revolution. He had served with reputation as an officer of rangers, had been present at the surrender of Ticonderoga and Crown Point, had assisted in the capture of Louisburg by General Amherst, and had fought with Wolfe at Quebec. At the commencement of the revolutionary war, he applied for the command of one of

the New Hampshire regiments. The General Assembly gave the preference to another colonel, and William Stark listened to the overtures made him by the enemy, and passed into the British service. He became a colonel in the English army, and was killed by a fall from his horse on Long Island. On the eve of his departure for New York, he communicated his intentions to his brother, to whom the same overtures had been made, and urged him to follow his example. But John steadily resisted the proposal, and parted with his brother never to meet again.

These facts are referred to, in order to show, that the course pursued by the gallant and patriotic officers who had distinguished themselves in the Seven Years' War, and who hastened to range themselves on the side of the Revolution, was not a hasty and unreflecting adhesion to the popular cause. They prove that the question was presented to the mind of Stark as one to be deliberately weighed, and that he decided for his country, against the influence of authority and temptation to which many a mind would have yielded, and with the immediate sacrifice of his emoluments as a British officer. His mind, however, was made up from the first. He uniformly maintained the popular side in the great public controversy, which commenced with the attempted establishment of a new colonial system, after

the downfall of the French power on the American continent. He formed the rallying-point of his neighbors and fellow-citizens, and gave the tone to the public sentiment in his vicinity. On the organization of the Committees of Safety in 1774, an organization whose efficiency and extent have not as yet been duly appreciated and set forth, Stark became a member of one of those bodies, for the town in which he lived. In this capacity, he exhibited the strength and wisdom of his character, signalizing his moderation as well as his firmness. He spared no pains to produce a cordial unanimity among the people, and to win over the wavering and disaffected to the popular cause. His military experience enabled him to act with effect, in preparing measures for a vigorous demonstration of strength, when the crisis should arrive.

Careful reflection upon the nature of the art of war will lead us to the conclusion, that the time, at which the revolutionary contest was brought on, was all-important to its success. If, instead of ten or twelve years from the close of the Seven Years' War, a period three or four times as long had elapsed before the commencement of the patriotic struggle, it is manifest, that all the military experience of the colonies would have passed away, and all the confidence and courage inspired by the conscious possession of tried leaders would

have vanished. It is not unlikely, that the recurrence of a war every fifteen or twenty years is absolutely necessary, to keep up the military character of a people, and prevent the traditionary portions of the military art, and that skill, which is acquired by actual service, from dying out. Whatever may be thought of this as a general principle, it is notorious that the recent experience of the Seven Years' War had a most salutary influence upon the character of the revolutionary struggle. The officers who had been trained in its arduous campaigns with few exceptions espoused the patriotic cause. So great had been the numbers of those who from 1754 to 1762 had served in every part of the country, from Nova Scotia to Florida, that there was found some one, and often several, of them in every town and settlement throughout the colony, to whom the idea of war, of its alarm, its preparation, its organization, its resources, its exposures, its prizes, was familiar.

Were the records of the Seven Years' War preserved to us, as amply as those of the Revolution, they would probably disclose, to say the least, as great an amount of military service, to which we are now perhaps likely to do but partial justice, for the want of more detailed accounts, and the superior interest attached to the revolutionary annals. But facts which occasionally come to light show the prodigious number of men who were en-

gaged in the military service in that war. In a recent obituary notice of an individual of the town of Grafton in Worcester county, who served in the Seven Years' War, it is stated, that thirty persons from this town were killed in the course of that war. There is no reason to suppose, that Grafton furnished more than its share of soldiers, or that an unusual proportion of those whom it furnished were killed. The population of this town in 1820 was but eleven hundred and fifty-four.

Of those officers of the Seven Years' War, whose experience and character contributed to give the first impulse to the revolutionary struggle. Stark was among the most prompt and efficient. The existing state of things in New Hampshire, as in the other New England colonies, furnished better materials for the speedy organization of a large force, than would at first be supposed. By the old militia law, every male inhabitant, from the age of sixteen to that of sixty, was obliged to be provided with a musket and bayonet, a knapsack, cartridge-box, a pound of powder, twenty bullets, and twelve flints. Every town was obliged to keep in readiness a barrel of powder, two hundred pounds of lead, and three hundred flints for every sixty men; besides a quantity of arms and ammunition for the supply of those, who were unable to provide themselves with the necessary articles. Those persons, who by reason of dignity and sta-

tion were exempt from the discharge of ordinary military duty, were obliged to keep on hand the statutory arms and ammunition. These requisitions were not strictly observed in time of peace, either by the towns or individuals. But Governor Wentworth had a few years before, by the appointment of officers and the review of the regiments, infused new life into the militia system of New Hampshire. The provincial Convention, which assembled at Exeter in January, 1775, in their address to their constituents, exhorted them, among other things, to devote themselves to exercise in the military art, that they might be ready to repel invasion. In pursuance of this exhortation, voluntary associations were formed, among the militia of the province, for the purpose of practice in military manœuvres and drilling, under the command of those whose experience in former wars qualified them for this duty. In addition to all this, the Committees of Inspection and Safety made it their duty, by personal application to every individual, to enforce his preparation for the anticipated struggle. In the discharge of all these voluntary duties, Stark was distinguished for his promptitude, zeal, and influence among his fellow-citizens.

The commencement of hostilities, on the 19th of April, 1775, can hardly be said to have taken the country unprepared. The tidings spread with

rapidity through the continent, and from every part of New England thousands of volunteers rushed to the scene of action. The greater part of the adjacent colonies received the intelligence within twenty-four hours. Within ten minutes after its reception, Stark had mounted his horse, and was on his way toward the sea-coast, having directed the volunteers of his neighborhood to rendezvous at Medford, near Boston. About twelve hundred men hastened, on the first alarm, from those parts of New Hampshire which bordered on Massachusetts, and, in pursuance of the advice of Stark, concentrated themselves at Medford. Of these a portion returned, but enough remained to constitute two regiments, which were organized under the authority of the Provincial Congress of Massachusetts. Of the first of these regiments Stark was unanimously elected colonel, Isaac Wyman lieutenant-colonel, and Andrew M'Clary major. The late Major-General Dearborn commanded a company in this regiment. As soon as the Provincial Congress of New Hampshire met, they voted to enlist two thousand men for eight months, of whom the two regiments, already embodied at the theatre of war, were to make a part. The residue formed a third regiment. Colonels Stark and Reed were confirmed in the command of the first two regiments, and Enoch Poor was appointed to the third. The greater part of the

two New Hampshire regiments was stationed at Medford ; but a detachment from them formed a part of the left wing of the army and was posted at Chelsea, and another part, we believe, was stationed near the Inman Farm, at Cambridge. Colonel Stark's quarters were at Medford. Having left home at a few minutes' notice, he went back to New Hampshire, after the organization of the regiment, to arrange his affairs ; and, after two days devoted to that object, returned to his command.

Shortly after rejoining his regiment, he was directed by General Ward to take a small escort and examine Noddle's Island, with a view to ascertain the practicability of establishing a battery there for the annoyance of the British shipping. He repaired to the island with Major M'Clary a few other officers, and a small party, crossing over from Chelsea. While engaged in reconnoitring the ground, they perceived a party of the enemy, who had landed upon the island with the intention of cutting them off, by getting possession of their boat. After exchanging a few shots, the British party retired, and left Colonel Stark and his companions in the undisturbed possession of their boat.

On the ever memorable seventeenth of June, 1775, Stark's regiment formed the left of the American line. The part of the British troops opposed

to it consisted of the Welsh Fusileers, who had distinguished themselves at the battle of Minden, and were considered one of the finest corps in the English army. It is not our present purpose to relate in detail the entire history of this glorious battle. A fitter opportunity for this attempt may present itself, in connexion with the biography of some one of the distinguished men, who exercised the chief command of the day. But among all who stood forward at this critical conjuncture, and bore their part in a conflict, which exerted an all-important influence upon the fate of the war, none is entitled to higher commendation than Stark. It is related, that when General Gage, reconnoitring the scene of the approaching action from Boston, before the battle commenced, was asked whether he thought the Americans would wait the assault of the royal troops, he replied, that "they would if one John Stark were among them, for he was a brave fellow, and had served under him at Lake George in 1758 and 1759."

Colonel Prescott, who commanded at Bunker's Hill, having perceived at about nine o'clock of the morning of the eventful day the necessity of a reinforcement, despatched Major Brooks to the head-quarters of General Ward at Cambridge, to make a representation to that effect. The matter was referred to a council of war, and by their advice orders were sent to Colonel Stark at Med-

ford to reinforce Colonel Prescott with two hundred men from the New Hampshire troops. This order was promptly obeyed, and the detachment required was sent under Lieutenant-Colonel Wyman to the scene of action. The men were in an imperfect state of preparation for so unexpected a call. Every man was immediately supplied with two flints and with a gill of powder and fifteen balls to make into cartridges. Nearly all of them, however, were unprovided with cartridge-boxes, and made use of powder-horns as a substitute. The guns were of different sizes, and the men were obliged in many cases to hammer their balls to a proper size. At a later hour another order arrived by express, directing Colonel Stark to repair with his whole regiment to Charlestown.

At an early period of the day, Captain Knowlton had been posted with a detachment of Connecticut troops, on the extreme left of the American line behind a rail fence, between the Mystic River and the road. The troops pulled up another fence in the neighborhood, placed it in the ground near that which covered their front, and filled the interval between them with the new-mown grass. A portion of this fence had a low stone wall beneath it. The whole formed a very inadequate breast-work. On the arrival of the New Hampshire troops at the scene of action (which was after the British troops and reinforcements had

landed in Charlestown, but before their advance from the place of disembarkation commenced), a portion of them were detached by General Putnam to work upon the intrenchments of Bunker's Hill, properly so called. The residue, under their Colonels, Stark and Reed, were ordered to take post at Captain Knowlton's position just described. On receiving this order, Colonel Stark made a brief and animated address to his men, and marched them off to the station designated. He had not precipitated his march from Medford, distant about five miles from the heights of Charlestown, and accordingly brought his men to the ground unexhausted and vigorous, justly stating that "one fresh man in battle is better than ten who are fatigued."

The British right wing, consisting of the fifth regiment, a regiment of grenadiers, and one of light infantry, moved forward to the attack of the Americans behind the rail fence, a portion of the light companies at the same time attempting to turn the extreme left of the American line. General Howe commanded on this portion of the field. The general order given to the American troops, to reserve their fire till the near approach of the enemy, had been repeated and enforced by Stark. This order was strictly obeyed, so that when his men threw in their volley, the veterans of the British army recoiled before it. The same

result was produced by the destructive fire from within the redoubt and along the line upon the declivity of the hill, and compelled the enemy precipitately to fall back. A second and third charge were followed by the same effect ; nor was it till the British army, strengthened by powerful reinforcements, was brought up for a fourth time to the assault, that they succeeded in forcing from the field the scanty numoers opposed to them, of whom many were exhausted by the labors of the preceding night, and of the day passed without refreshment.

In the heat of the action it was reported to Colonel Stark that his son, a young man of sixteen who had followed him to the field, had just been killed. He remarked to the person, who brought him the information, that it was not the moment to talk of private affairs, when the enemy was in force in front ; and ordered him back to his duty. The report, however, proved erroneous, and his son served through the war as a staff-officer.

After the fate of the day was decided, Stark drew off his regiment in such order that he was not pursued. The following extract from a letter written by him the second day after the battle deserves preservation, as an authentic document relative to this most important event.

"TO THE HON. MATTHEW THORNTON, EXETER.

" Medford, June 19, 1775.

" SIR,

" I embrace this opportunity by Colonel Holland, to give you some particulars of an engagement, which was fought on the 17th instant, between the British troops and the Americans.

" On the 16th at evening, a detachment of the Massachusetts line marched, by the General's order, to make an intrenchment upon a hill in Charlestown, called Charlestown Hill, near Boston, where they intrenched that night without interruption, but were attacked on the morning of the 17th very warmly, by the ships of war in Charlestown River and the batteries in Boston. Upon this, I was ordered by the General, to send a detachment of two hundred men with proper officers to their assistance, which order I promptly obeyed, and appointed Lieutenant-Colonel Wainman to command the same. At two o'clock in the afternoon, an express arrived for my whole regiment to proceed to Charlestown to oppose the British, who were landing on Charlestown Point. Accordingly we proceeded and the battle soon came on, in which a number of officers and men of my regiment were killed and wounded. The officers killed were Major M'Clary by a cannon-ball, and Captain Baldwin and Lieutenant Scott by small arms.

"The whole number, including officers,	
killed and missing	15
"Wounded	45

"Total killed, wounded, and missing .	60
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"By Colonel Reed's desire, I transmit the account of those who suffered, belonging to that portion of his regiment, who were engaged, viz.

"Killed	3
"Wounded	29
"Missing	1

33

"Total in both regiments .	93
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"But we remain in good spirits, being well satisfied, that where we have lost one, the enemy have lost three.

"I am, Sir, with great respect,
Yours and the country's
to serve, in a good cause,
"JOHN STARK."

The fate of Major M'Clary demands a brief commemoration. He was a person of commanding stature and Stentorian voice, which was heard amidst the roar of the cannon and musketry, exhorting his men to the discharge of their duty. After the retreat, he hastened to Medford to procure a supply of dressings for the wounded. Re-

turning on this benevolent errand, he crossed again over Charlestown Neck to reconnoitre the British troops, which had now taken possession of the heights. Having accomplished that object, he was on his way back to join the retreat of his regiment in company with Lieutenant-Colonel Robinson, Captain Dearborn, and other officers. To some remark made on the danger of crossing the neck, he replied, "The ball is not yet cast, which is commissioned to kill me." At that moment, a shot from the Glasgow destroyed him. Captain Baldwin, another meritorious officer in Stark's regiment, who fell on this occasion, had fought in twenty battles in the former wars. On no part of the line was the execution greater, than on that, where the New Hampshire troops were stationed. In an account sent from the British army, bearing date, Boston, 5th July, 1775, and published in London, we are told that the British light infantry were moved up "in companies against the grass fence, but could not penetrate it. Indeed, how could we penetrate it? Most of our grenadiers and light infantry, the moment of presenting themselves, lost three-fourths and many nine-tenths of their men. Some had only eight or nine men in a company left, some only three, four, or five." *

* Detail and conduct of the American War. London. 1780. p. 13.

On the retreat from Bunker's Hill, our troops took post upon the heights in the neighborhood; the regiment of Stark on Winter Hill. The night succeeding the battle and the following day were passed in the labor of intrenching; but the experience of the 19th of April and the 17th of June deterred the British troops from any repetition of the attempt to penetrate into the interior, in this portion of the country. No important movement was made, on either side, for the rest of the season. At the close of the year the term for which the men had engaged had generally expired, and a reënlistment became necessary. Colonel Stark met with extraordinary success in engaging his men to continue in the service, and in a few days his regiment was again full.

While the regiment of Stark was stationed at Winter Hill, an incident occurred, strikingly illustrative of his character. It is related in his Memoirs on the authority of the late Major Dow of Hampton Falls. The person, who had been appointed paymaster of the New Hampshire line, was unfriendly to Colonel Stark, and endeavored to embarrass the payment of his men, in order to create disaffection in the regiment. The troops were marched by companies, to receive their pay, to Medford, where the paymaster had stationed himself. He refused to pay them, on

the ground that their pay-rolls were not made out in proper form. The men, highly dissatisfied, returned to their encampment ; and the next day marched again to Medford, with new pay-rolls, made out (it was supposed) in the strictest form, but payment was again refused. The same thing was repeated on the third day ; and the soldiers returned, ripe for mutiny, to the camp. They besieged the Colonel's quarters clamoring for payment. Colonel Stark was provoked at the vexatious delays, interposed by the paymaster, and declared that "as the regiment had made him three visits, he should make them one in return." He accordingly despatched a sergeant's guard, arrested the paymaster at his quarters in Medford, and brought him to camp, to the tune of the *Rogue's March*. On examination he could point out no fault in the roll, and the men were paid. Colonel Stark's conduct was submitted to a court of inquiry ; but the paymaster had fallen, meantime, under strong suspicion of being a defaulter, and found it advisable to quit the army. The court of inquiry deemed it inexpedient to pursue the affair.

A portion of the officers and men in Stark's regiment had, in the course of the summer of 1775, enlisted as volunteers in the expedition, which was undertaken by direction of General Washington, under the command of Arnold, to

penetrate, by the way of the Kennebec, into Canada. Dearborn (a Major-General in the war of 1812), a distinguished Captain in Stark's regiment, shared the almost unexampled hardships of this march. Colonel Stark himself remained at his station on Winter Hill, till the evacuation of Boston by the British, in the month of March, 1776.

On the occurrence of that event, a small detachment of the army was left at Boston, under the command of General Ward, to complete the erection of the works there begun; while the main body marched to New York, under the command of General Washington. The regiment of Stark was among the troops, who proceeded to New York, and their Colonel was assiduously employed on his arrival under the orders of the commander-in-chief, in strengthening the defences of that place. In the month of May, his regiment was ordered to proceed, by the way of Albany, to join the American army in Canada. Stark came up with the army at St. John's, and thence advanced to the mouth of the river Sorel. The bold and not ill-conceived expedition against Canada, one of the earliest and most favorite projects of the Continental Congress, was now drawing to a close. The utmost that could be hoped was to prevent its being precipitated to a disastrous termination. General

Thomas had died of the small-pox at Sorel, after having raised the siege of Quebec, and retreated to that place. General Sullivan succeeded him in the command, and this circumstance, with the arrival of reinforcements, which raised the entire force of the Americans to four or five thousand men, gave new hopes of retrieving the fortunes of the expedition. General Sullivan deemed it expedient to execute the project of an attack upon the enemy's post at Three Rivers, suggested by Colonel St. Clair, and approved by General Thompson, who, for a few days, during the illness of General Thomas, had the command at Sorel.* Stark remonstrated, in a council of war, against this expedition, as one requiring for its success a naval superiority upon the river, and the concurrence of too many contingent circumstances. But, it having been decided to pursue the attack, the principles of duty, which governed him while in the service, prompted him to contribute all in his power to its successful issue. The result, as is well known, was unfortunate.

On the return to Sorel of those, who escaped from the disaster of Three Rivers, it became necessary for the American army to retire from Canada. The retreat was conducted by General Sullivan with skill, in the face of a superior and

* St. Clair's *Narrative*, p. 235.

triumphant force of the enemy. In fact it had been the wish of this commander to defend the post of Sorel; but he was overruled, in this rash purpose, by the unanimous opinion of his officers. It was but a few hours before the appearance of the enemy, that he was finally prevailed upon, by a council of war, to retire. The pursuit was not continued beyond Isle-aux-Noix, the Americans having the command of Lake Champlain. But, though unmolested by the enemy, the army of General Sullivan suffered severely by the small-pox. After passing the Lake, the regiment of Stark was stationed at Chimney Point, on the side of the Lake opposite to Crown Point, where the remainder of the army was posted. Here it was the opinion of Colonel Stark, that the army should make a stand. General Schuyler, who had assumed the command of the army, and all the general officers under him, thought otherwise, and it was determined in a council of war to fall back to Ticonderoga, contrary to the advice of several of the subordinate officers, who deemed it essential, for the protection of the country on the borders of the Lake, to hold Crown Point. This opinion they set forth in a written memorial addressed to the General, but without effect. On the 6th and 7th of July, 1776, the army reached Ticonderoga. On the following day, the Declaration of Independence was re-

ceived and proclaimed to the army, who hailed it with shouts of applause. The regiment of Stark was stationed on a hill, distant about two miles from the fort, and which was named Mount Independence, in honor of the memorable event, which had just been proclaimed. Thus had Colonel Stark the satisfaction, on the theatre of his former military exploits, and sixteen years after he had been present with General Amherst at the taking of Ticonderoga from the French, to hear the Independence of his country proclaimed, at the head of a patriotic army. In a short period the command of the post devolved on General Gates. Upon his arrival at headquarters, a reorganization of the army took place, and Colonel Stark was appointed to the command of a brigade, with orders to clear and fortify Mount Independence, then a wilderness.

Nothing further of importance occurred on the northern frontier, in the course of the season. After the disastrous occurrences in New York, General Gates was ordered to reinforce General Washington on the right bank of the Delaware. The regiment of Colonel Stark was among the troops, detached from the northern army for this purpose; and reached the head-quarters of the Commander-in-chief on the 20th of December. By this reinforcement the army of General Washington was swelled to about seven thousand

effective men. This was a period of deep and general despondency, and Washington felt the necessity of striking a bold stroke, which might have the effect of changing the gloomy aspect of affairs, and reviving the spirits of the country. In this design, an attack on all the enemy's posts upon the left bank of the Delaware was projected. Owing to the inclemency of the weather, and the state of the river, some portions of this plan miscarried; but that part of it, which was to be executed under the direct command of Washington, the attack upon Trenton, was completely successful. In this attack, General Sullivan commanded the right wing, and Stark, with his regiment, led the vanguard, and contributed his full share to this brilliant enterprise, in which twenty of the enemy were killed, and nearly one thousand made prisoners. On the part of the Americans, two persons only were killed, and four or five wounded. But the fact, that two were also frozen to death, shows the rigor of the night, under cover of which this *coup de main* was executed. On the eve of this affair, Colonel Stark, in allusion to the spirit, with which the contest had hitherto been carried on, as a war of posts and intrenchments, rather than of battles, thus expressed himself to the General; "Your men have long been accustomed to place dependence upon spades and pickaxes for safety.

But if you ever mean to establish the Independence of the United States, you must teach them to rely upon their fire-arms." Washington replied, "This is what we have agreed upon. We are to march to-morrow upon Trenton; you are to command the right wing of the advanced guard, and General Greene the left." The Colonel rejoined, that he could not have been assigned to a more acceptable station.

Colonel Stark accompanied Washington, when, a few days afterwards, he again crossed the Delaware. He was with him in the battle at Princeton, and remained with the army till the establishment of the head-quarters of General Washington at Morristown. The term for which his men had enlisted had expired before these last brilliant efforts of the American commander-in-chief. Stark, however, proposed to them a reënlistment for a short period; and his personal influence with his regiment induced them to a man to enter into a new engagement for six weeks. It was not easy, in the critical state of affairs at the time, to render a more important service to the country.

But, as this new enlistment was but for a few weeks, it became necessary to make a more permanent provision to recruit the ranks of the regiment. He was accordingly ordered to New Hampshire to perform that service. By the month of March, 1777, he had discharged the

duty so successfully, that his regiment was full. He immediately communicated this intelligence to the Council of New Hampshire and to General Washington. He repaired to Exeter to receive instructions from the authorities of New Hampshire, who were there assembled. While there he was informed, that a new list of promotions had been made, in which his name was omitted, and those of junior officers were found. He ascribed this neglect of what he conceived his just claims, to the unfriendly interposition of some officers of high rank and members of Congress. It was impossible for a man of his lofty spirit and unbending character to acquiesce in what he considered an injurious disregard of his fair pretensions to advancement. He immediately appeared before the Council, and also waited upon the Generals Sullivan and Poor. He stated the grounds of his dissatisfaction and his determination to retire from the army. Wishing them all possible success in the service of the country, he surrendered his commission and returned home, without any expectation of entering again into the ranks of the army. But, though dissatisfied with his own treatment, he was in no degree disaffected to the cause. He fitted out for the army all the members of his family, who were old enough to join it, and continued, as heretofore, by every means except his personal services

in the field, to promote the great cause of his country.

The retirement of Colonel Stark was not viewed with indifference. Generals Sullivan and Poor endeavored to dissuade him from executing his purpose. But he declared that an officer, who would not maintain his rank and assert his own rights, could not be trusted to vindicate those of his country. At the same time he pointed out to them the dangerous situation of Ticonderoga and the necessity of immediate relief, if the northern frontier was to be protected; and he declared his readiness again to take the field, whenever his country should require his services. On his resignation, the Council and House of Delegates of New Hampshire expressed their sense of the value of his services, by the following vote, passed the 21st of March, 1777. "Voted, that the thanks of both Houses in convention be given to Colonel Stark for his good services in the present war; and that, from his early and steadfast attachment to the cause of his country, they make not the least doubt that his future conduct, in whatever state of life Providence may place him, will manifest the same noble disposition of mind." On the passage of this vote, the thanks of both Houses were presented to him by the President.

The time was fast approaching, when the confidence here expressed in the patriotism of Colonel Stark was to be justified in the most signal and gratifying manner. The war on the northern frontier had thus far been little else than a succession of disasters, and the summer of 1777 seemed likely to be distinguished by calamities not less distressing than those, which had attended the invasion of Canada. A formidable army was penetrating the States from Canada, and the plan of the campaign, as far as it was developed, threatened a junction of the force of Burgoyne with that of Sir William Howe, which would have effectually broken the States into two feeble and disconnected portions. The retreat of the American army from Ticonderoga, on the approach of Burgoyne, while it filled the public mind with dismay, as the surrender of a position on which the safety of the north depended, was regarded with gloomy apprehension, as the prelude to further reverses. The mind of Washington, however, by a happy forecast perceived a gleam of hope, even in this hour of despondence, and with a sort of prophetic skill seems to have foretold, with extraordinary precision, the auspicious change of affairs which was in store. In reply to a letter of General Schuyler, of the 17th of July, communicating the unfavorable state and prospects of the army, he says, "Though our

affairs have for some days past worn a gloomy aspect, yet I look forward to a happy change. I trust General Burgoyne's army will meet sooner or later an effectual check ; and, as I suggested before, that the success he has had will precipitate his ruin. From your accounts, he appears to be pursuing that line of conduct, which, of all others, is most favorable to us, I mean acting in detachment. This conduct will certainly give room for enterprise on our part, and expose his parties to great hazard. Could we be so happy as to cut one of them off, though it should not exceed four, five, or six hundred men, it would inspirit the people and do away much of their present anxiety. In such an event they would lose sight of past misfortunes, and, urged at the same time by a regard for their own security, they would fly to arms and afford every aid in their power."

It must be confessed that it required no ordinary share of fortitude, to find topics of consolation in the present state of affairs. The British were advancing with a well-appointed army into the heart of the country, under the conduct, as it was supposed, of the most skilful officers, confident of success and selected to finish the war. The army consisted in part of German troops, veterans of the Seven Years' War, under the command of a general of experience, conduct, and

valor. Nothing could have been more ample than the military supplies, the artillery, munitions, and stores, with which the army was provided. A considerable force of Canadians and American loyalists furnished the requisite spies, scouts, and rangers ; and a numerous force of savages in their war dresses, with their peculiar weapons and native ferocity, increased the terrors of its approach. Its numbers were usually rated at ten thousand strong.

On the evacuation of Ticonderoga, and the further advance of such an army, the New England States, and particularly New Hampshire and Massachusetts, were filled with alarm. It was felt that their frontier was uncovered, and that strenuous and extraordinary efforts for the protection of the country were necessary. In New Hampshire, as being nearer the scene of danger, a proportionably greater anxiety was felt. The Committee of Safety of what was then called the New Hampshire Grants, the present State of Vermont, wrote in the most pressing terms to the New Hampshire Committee of Safety at Exeter, apprizing them, that, if assistance should not be sent to them, they should be forced to abandon the country and take refuge east of the Connecticut River. When these tidings reached Exeter, the Assembly had finished their spring session and had gone home. A summons from the Commit-

tee brought them together again, and in three days they took the most effectual and decisive steps for the defence of the country. Among the patriotic members of the Assembly, who signalized themselves on this occasion, none was more conspicuous than the late Governor Langdon. The members of that body were inclined to despond; the public credit was exhausted; and there were no means of supporting troops, if they could be raised. Meantime the defences of the frontier had fallen, and the enemy, with overwhelming force, was penetrating into the country. At this gloomy juncture, John Langdon, a merchant of Portsmouth, and speaker of the Assembly, thus addressed its members;

“I have three thousand dollars in hard money; I will pledge my plate for three thousand more; I have seventy hogsheads of Tobago rum, which shall be sold for the most it will bring. These are at the service of the state. If we succeed in defending our firesides and homes, I may be remunerated; if we do not, the property will be of no value to me. Our old friend Stark, who so nobly maintained the honor of our state at Bunker’s Hill, may be safely intrusted with the conduct of the enterprise, and we will check the progress of Burgoyne.”

This proposal infused life into the measures of the Assembly. They formed the whole militia

of the State into two brigades. Of the first they gave the command to William Whipple, of the second to John Stark. They ordered one fourth part of Stark's brigade and one fourth of three regiments of Whipple's to march immediately under the command of Stark, "to stop the progress of the enemy on our western frontiers." They ordered the militia officers to take away arms from all persons, who scrupled or refused to assist in defending the country; and appointed a day of fasting and prayer, which was observed with great solemnity.

But it was in the selection of the commander, who was to direct these measures of protection, that the great hope of the people, under Providence, rested. Stark was now called upon, sooner than he had anticipated, to digest his private griefs and hasten to the defence of his country. Knowing the confidence reposed in his firmness, fortitude, and military experience by all classes of the community, the Assembly deemed their work of preparation unfinished, till they could hold out his name, as the rallying-point to the people. Deeply wounded by the occurrences of the spring, he refused at first to accept the command of the troops; but consented at length to assume it, on condition, that he should not be obliged to join the main army, but be allowed to hang upon the wings of the enemy in the New Hampshire

Grants, and to exercise his own discretion as to his movements, accountable to no one but the authorities of New Hampshire. His conditions were complied with, and he was, in the language of the original orders, directed to repair with a separate command, "to Charlestown on Connecticut river ; there to consult with a committee from the New Hampshire Grants, respecting his future operations, and the supply of his men with provisions ; to take the command of the militia and march into the Grants ; to act in conjunction with the troops of that new State, or any other of the States, or the United States, or separately, as it should appear expedient to him, for the protection of the people and the annoyance of the enemy."

The appearance of their favorite commander filled the people with spirits. The militia took the field without hesitation. In a few days Stark proceeded to Charlestown ; and, as fast as his men came in, he sent them forward to join the troops of the Grants under Colonel Warner, who had taken post at Manchester, twenty miles to the north of Bennington. Here Stark soon joined him, and met with General Lincoln, who had been sent from Stillwater by General Schuyler, commander of the northern department, to conduct the militia to the west bank of the Hudson. Stark communicated the orders, under which he was acting from the authorities of New Hamp-

shire, stated his views of the dangerous consequences, to the people of Vermont, of removing his force from their borders, and declined obedience to General Schuyler's command. General Lincoln made known to General Schuyler and to Congress the result of his application. On the 19th of August, 1777, that body resolved, "that a copy of General Lincoln's letter be forthwith transmitted to the Council of New Hampshire, and that they be informed that the instructions, which General Stark says he received from them, are destructive of military subordination, and highly prejudicial to the common cause at this crisis; and that therefore they be desired to instruct General Stark to conform himself to the same rules which other General officers of the militia are subject to, whenever they are called out at the expense of the United States." Notwithstanding this disapprobation of the course pursued by General Stark and the correctness of the principles involved in the resolution of Congress, the refusal of the General to march his troops to the west of the Hudson was founded upon the soundest views of the state of things, and was productive of inestimable benefits to the country, as the event soon proved.

The levy of the militia, to which we have alluded, was ordered by the Assembly of New Hampshire, on a general consideration of the exposed condition of the western frontier of the State

after the abandonment of Ticonderoga by the American army. But events speedily occurred which showed the wisdom of these measures of preparation. At the very period when they were completed, General Burgoyne, filled with an overweening confidence in his superior strength, and greatly deceived as to the extent of the royalist party in the Colonies, disregarding the advice of Baron Riedesel, the commander-in-chief of the German troops, detached Colonel Baum, with a party of six hundred men on an expedition, the object of which was, in the first sentence of the instructions given by General Burgoyne to the commander, stated to be, "to try the affections of the country, to disconcert the councils of the enemy, to mount Riedesel's dragoons, to complete Peters's corps (of loyalists), and to obtain large supplies of cattle, horses, and carriages." *

These instructions bear date the 9th of August, and the detachment of Baum was put in motion, about the time of Stark's arrival at Bennington. The Commander-in-chief of the American army, probably apprized of this movement of the enemy,

* The original of these instructions came into the possession of General Lincoln, and was by him deposited in the archives of the Massachusetts Historical Society. A copy of the document is found in their Collections, First Series, Vol. II. p. 25.

perceived the wisdom of Stark's dispositions, and approved his plan of operations. On the 13th of August, information reached General Stark, that a party of Indians attached to Baum's force had been perceived at Cambridge, about twelve miles northwest from Bennington. He immediately detached Lieutenant-Colonel Gregg, with two hundred men, to stop their march. In the course of the night, he was advised by express, that a large body of the enemy, with a train of artillery, was in the rear of the Indians, in full march for Bennington. He immediately rallied his brigade, with all the militia which had collected at Bennington. Orders were at the same time despatched to the officer in command of Colonel Warner's regiment at Manchester, to march that body of men down to Bennington, and an animated call was made upon all the neighboring militia. These various dispositions were carried promptly into effect.

On the morning of the 14th, Stark moved forward to the support of Colonel Gregg, with the entire force under his command. At the distance of four or five miles, he met the Colonel in full retreat, and the enemy within a mile of him. Stark instantly halted, and drew up his men in order of battle. The enemy, perceiving that he had taken a stand, immediately came to a halt on very advantageous ground and there intrenched themselves. Unable to draw them from their po-

sition, he fell back for a mile, leaving only a small party to skirmish with the enemy. This was done with considerable effect. Thirty of their force, with two Indian chiefs, were killed or wounded, without any loss on the American side.

The following day, the 15th, was rainy, and nothing was attempted beyond skirmishing with the enemy. This was done with spirit, and the Indians began to desert the army of Colonel Baum, 'because,' as they said, "the woods were filled with Yankees." This respite enabled the enemy to complete their breast-works, to apprise General Burgoyne of their situation, and to ask for reinforcements. Colonel Breyman, with an additional body of German troops, was immediately detached to the assistance of Baum.

On the morning of the 16th, General Stark was joined by Colonel Symonds, with a body of Berkshire militia, and made preparations for an attack, according to a plan proposed by the General and agreed upon in a council of war.

The German troops with their battery were advantageously posted upon a rising ground at a bend in the Wollamsac (a tributary of the Hoosac) on its north bank. The ground fell off to the north and west, a circumstance of which Stark skilfully took advantage. Peters's corps of Tories were intrenched on the other side of the stream, in lower ground, and nearly in front of

the German battery. The little river, that meanders through the scene of the action, is fordable in all places. Stark was encamped upon the same side of it as the Germans, but, owing to its serpentine course, it crossed his line of march twice on his way to their position. Their post was carefully reconnoitred at a mile's distance, and the plan of attack was arranged in the following manner. Colonel Nichols, with two hundred men, was detached to attack the rear of the enemy's left, and Colonel Herrick, with three hundred men, to fall upon the rear of their right, with orders to form a junction before they made the assault. Colonels Hubbard and Stickney were also ordered to advance with two hundred men on their right and one hundred in front, to divert their attention from the real point of attack. The action commenced at three o'clock in the afternoon on the rear of the enemy's left, when Colonel Nichols, with great precision, carried into effect the dispositions of the commander. His example was followed by every other portion of the little army. General Stark himself moved forward slowly in front, till he heard the sound of the guns from Colonel Nichols's party, when he rushed upon the Tories, and in a few moments the action became general. "It lasted," says Stark, in his official report, "two hours, and was the hottest I ever saw. It was like one continued clap of thunder." The

Indians, alarmed at the prospect of being enclosed between the parties of Nichols and Herrick, fled at the commencement of the action, their main principle of battle array being to contrive or to escape an ambush or an attack in the rear. The Tories were soon driven over the river, and were thus thrown in confusion on the Germans, who were forced from their breast-work. Baum made a brave and resolute defence. The German dragoons, with the discipline of veterans, preserved their ranks unbroken, and, after their ammunition was expended, were led to the charge by their Colonel with the sword; but they were overpowered and obliged to give way, leaving their artillery and baggage on the field.

They were well enclosed in two breast-works which, owing to the rain on the 15th, they had constructed at leisure. But notwithstanding this protection, with the advantage of two pieces of cannon, arms and ammunition in perfect order, and an auxiliary force of Indians, they were driven from their intrenchments by a band of militia just brought to the field, poorly armed, with few bayonets, without field-pieces, and with little discipline. The superiority of numbers, on the part of the Americans, will, when these things are considered, hardly be thought to abate any thing from the praise due to the conduct of the commander, or the spirit and courage of his men.

The enemy being driven from the field, the militia dispersed to collect the plunder. Scarcely had they done so, before intelligence was brought, that a large reinforcement from the British army was on the march, and within two miles' distance. This was the corps of Colonel Breyman, already mentioned, which had been despatched by General Burgoyne on receiving from Baum intelligence of his position. The rain of the preceding day and the badness of the roads had delayed his arrival; a circumstance which exercised a very important influence on the fate of the battle. On the approach of Breyman's reinforcements, the flying party of Baum made a rally, and the fortune of the day was for a moment in suspense. Stark made an effort to rally the militia; but happily at this juncture Colonel Warner's regiment came up fresh and not yet engaged, and fell with vigor upon the enemy.

This regiment, since the battle fought at Hubbardston, had been stationed at Manchester. It had been reduced, by the loss sustained in that action, to less than two hundred men. Warner, their Colonel, as we have seen, was at Bennington and was with General Stark on the 14th. The regiment at Manchester was under the command of Major Samuel Safford. In consequence of the absence of a large number of the men on a scouting party, and other causes, it was not pos-

sible to put the regiment in motion on the 14th, on the 15th they marched for Bennington. Owing to the heavy rain of that day, it was near midnight, when the troops arrived within a mile of Bennington. Fatigued with the march of the preceding day, their arms and equipments injured by the rain, and their ammunition scanty, a considerable portion of the ensuing day was exhausted, before the men could prepare themselves for battle. The first assault had been made in the manner described, and the enemy driven from the field, before this regiment came into action. At the most critical moment of the day, when the arrival of Breyman's reinforcement threatened a reverse of its good fortune, Warner's troops appeared in the field.* Stark, with what men he had

* Some confusion on the subject of Warner's regiment exists in the histories, and has probably perplexed most readers of the accounts of the battle. General Stark, in his official letter to General Gates, expressly states that Warner was with him on the 14th; and Gordon and others correctly follow this authority. But yet it is also stated, that Warner's regiment came up fresh after the first action of the 16th. The Editor of the Memoir appears to have thought there must have been an error in the official account of the events of the 14th, which he seems accordingly to have altered by omitting the names of Warner, Herrick, and Brush as being with Stark on that day. I have followed, however, a copy of Stark's letter, made from the original among Gates's papers, now in

been able to rally, pushed forward to his assistance, and the battle was contested with great obstinacy on both sides till sunset, when the enemy were obliged to give way. General Stark pursued their flying forces till dark, and was obliged to draw off his men, to prevent them from firing upon each other under cover of night. "With one hour more of daylight," as he observes in his official report, "he would have captured the whole body." The fruits of the victory were four pieces of brass cannon, several hundred stand of arms, eight brass drums, a quantity of German broad swords, and about seven hundred prisoners. Two hundred and seven were killed upon the spot ; the number of the wounded was not ascertained. Colonel Baum was wounded and made a prisoner, but shortly after died of his wounds. The loss of the Americans was thirty killed and forty wounded. The General's horse was killed in the action

the archives of the New York Historical Society. The facts mentioned in the text explain this difficulty. The accounts generally, state, that Warner's regiment came up "fresh from Manchester," on the afternoon of the 16th. This is not correct. That regiment, as we have seen, arrived very late the night before, drenched with rain ; and the time required to dry their arms and prepare ammunition, after the march of the 15th, accounts for their coming so late into action on the 16th. I am indebted for the knowledge of this fact, and of others illustrative of the action, to Mr. Hiland Hall, of Bennington, member of Congress from Vermont.

Too much praise cannot be bestowed on the conduct of those, who gained the battle of Bennington, officers and men. It is perhaps the most conspicuous example of the performance by militia of all that is expected of regular, veteran troops. The fortitude and resolution, with which the lines at Bunker's Hill were maintained, by recent recruits, against the assault of a powerful army of experienced soldiers, have always been regarded with admiration. But at Bennington the hardy yeomen of New Hampshire, Vermont, and Massachusetts, many of them fresh from the plough and unused to the camp, "advanced," as General Stark expresses it in his official letter, "through fire and smoke, and mounted breast-works, that were well fortified and defended with cannon."

Fortunately for the success of the battle, Stark was most ably seconded by the officers under him ; every previous disposition of his little force was most faithfully executed. He expresses his particular obligations to Colonels Warner and Herrick, "whose superior skill was of great service to him." Indeed the battle was planned and fought with a degree of military talent and science, which would have done no discredit to any service in Europe. A higher degree of discipline might have enabled the General to check the eagerness of his men to possess themselves of the spoils of victory ; but his ability, even

in that moment of dispersion and under the flush of success, to meet and conquer a hostile reinforcement, evinces a judgment and resource not often equalled in partisan warfare.

In fact it would be the height of injustice not to recognise, in this battle, the marks of the master mind of the leader, which makes good officers and good soldiers out of any materials, and infuses its own spirit into all that surround it. This brilliant exploit was the work of Stark, from its inception to its achievement. His popular name called the militia together. His resolute will obtained him a separate commission, — at the expense, it is true, of a wise political principle, — but on the present occasion, with the happiest effect. His firmness prevented him from being overruled by the influence of General Lincoln, which would have led him, with his troops, across the Hudson. How few are the men, who in such a crisis would not merely not have sought, but actually have repudiated, a junction with the main army! How few, who would not only have desired, but actually insisted on taking the responsibility of separate action! Having chosen the burden of acting alone, he acquitted himself in the discharge of his duty, with the spirit and vigor of a man, conscious of ability proportioned to the crisis. He advanced against the enemy with promptitude; sent forward a small force to recon

noitre and measure his strength ; chose his ground deliberately and with skill ; planned and fought the battle with gallantry and success. Pointing out the enemy to his soldiers, he declared to them, that “ he would gain the victory over them in the approaching battle, or Molly Stark should be a widow that night.” And this victory was gained by the simple force of judicious dispositions of his men, bravely executed.

The consequences of this battle were of great importance. It animated the hearts of the people, more than fulfilling, in this respect, the happy prediction of Washington. But its immediate effects were of the first moment. It not only cost the army of Burgoyne more than one thousand of his best troops, but it wholly deranged the plan of his campaign, and materially contributed to the loss of his army. By advancing beyond Ticonderoga, his communication with the country in his rear was interrupted. He relied on these lateral excursions to keep the population in alarm and to prevent their flocking to Gates. He also depended on procuring his supplies by such inroads into the country. The catastrophe of Baum’s expedition, by which he hoped to furnish himself with an ample store of provisions collected at Bennington, disappointed that expectation, and compelled him to halt, till he could procure them in detail from other quarters, and thus retarded his advance

toward Albany for a month, during all which time the militia poured to the standard of General Gates, and placed him in a condition, to compel the surrender of the British army. In the Memoir of Baron Riedesel's expedition, written by the Baroness, it is stated that this judicious officer strongly remonstrated against despatching Baum, and the event of the expedition is declared "to have paralyzed at once the operations of the British army."

General Stark, on the achievement of his victory, communicated the intelligence of it to General Gates, by a letter bearing date three days after the battle. He also transmitted official information of it to the State authorities of New Hampshire, Massachusetts, and Vermont, whose troops were engaged with him in the contest. To each of these three States he sent trophies of the battle, — brazen drums, muskets, and swords taken from the field.

The following is a copy of General Stark's letter, accompanying the trophies sent by him to the Assembly of Massachusetts, and copied from the original in the public archives at Boston.

"Bennington, September 15th, 1777.

"General Stark begs leave to present to the State of the Massachusetts Bay, and pray their acceptance of the same, one Hessian gun and bayonet, one broad sword, one brass-barrelled drum,

and one grenadier's cap, taken from the enemy, in the memorable battle, fought at Wallomsac, on the 16th of August last; and requests that the same may be kept in commemoration of that glorious victory, obtained over the enemy that day, by the united troops of that State, those of New Hampshire, and Vermont, which victory ought to be kept in memory, and handed down to futurity, as a lasting and laudable example for the sons and daughters of the victors, in order never to suffer themselves to become the prey of those mercenary tyrants and British sycophants, who are daily endeavoring to ruin and destroy us."

The General Court of Massachusetts was not in session on the receipt of this letter, and did not meet till the next December. On the 12th of that month, the following letter was addressed to General Stark, in behalf of the Assembly.

"Boston, 12th of December, 1777.

"SIR,

"The General Assembly of this State take the earliest opportunity, to acknowledge the receipt of your acceptable present, — the tokens of victory at the memorable battle of Bennington.

"The events of that day strongly mark the bravery of the men, who, unskilled in war, forced from their intrenchments a chosen number of veteran troops, of boasted Britons; as well as the ad-

dress and valor of the General, who directed their movements and led them on to conquest. This signal exploit opened the way to a rapid succession of advantages most important to America.

“These trophies shall be safely deposited in the archives of the State, and there remind posterity of the irresistible power of the God of armies, and the honors due to the memory of the brave.

“Still attended with like successes, may you long enjoy the just rewards of a grateful country.’

Together with this letter the following resolution was adopted.

“Resolved unanimously, that the Board of War of this State be and they hereby are directed, in the name of this Court, to present to the honorable Brigadier-General Stark a complete suit of clothes becoming his rank, together with a piece of linen; as a testimony of the high sense this Court have of the great and important services rendered by that officer.”

The interesting trophies of the battle sent to Massachusetts are still preserved on the walls of her Senate-chamber, opposite to the chair of the President of that body.*

* We beg leave respectfully to suggest, that the name of John Stark, with the date of the battle of Bennington, be placed beneath them.

But perhaps the most characteristic incident in the whole transaction, was the neglect of Stark to inform Congress of his victory. Slighted as he thought himself by that body, by the promotion of officers younger than himself, he had quitted the Continental service in disgust. While yet smarting under the recent sense of injury, he had sought the noblest revenge, that of redoubled exertions in the cause of his country ; and having fulfilled this purpose to the utmost of the demands, either of ambition or patriotism, he disdained to make his success the instrument of a triumphant accommodation. He gained his victory two days before Congress had passed their resolution, censuring his assumption of a separate command. As his letters on the subject of his rank had lain on the table of Congress unanswered, he forbore to write to them, even to communicate the tidings of his triumph. Congress, however, wisely chose to take themselves the first step toward a reconciliation, and, on the 4th of October, passed the following resolution, "That the thanks of Congress be presented to General Stark of the New Hampshire militia, and the officers and troops under his command, for their brave and successful attack upon and victory over the enemy in their lines at Bennington ; and that Brigadier Stark be appointed a Brigadier-General in the armies of the United States." On the last clause of the

resolution the ayes and nays were called, and one vote was given in the negative.*

Several anecdotes of this affair have been recorded, and the following deserves a repetition. Among the reinforcements from Berkshire County came a clergyman, with a portion of his flock, resolved to make bare the arm of flesh against the enemies of the country. Before daylight on the morning of the 16th, he addressed the commander as follows. "We the people of Berkshire have been frequently called upon to fight, but have never been led against the enemy. We have now resolved, if you will not let us fight, never to turn out again." General Stark asked him, "if he wished to march then, when it was dark and rainy." "No," was the answer. "Then," continued Stark, "if the Lord should once more give us sunshine, and I do not give you fighting enough, I will never ask you to come again." — The weather cleared up in the course of the day, and the men of Berkshire followed their spiritual guide into action.†

We ought not wholly to dismiss this account of the battle of Bennington, without observing, that General Stark, in persisting in his refusal to march his troops from Vermont to the army under Gen-

* Judge Chase of Maryland.

† This is believed to have been the Rev. Mr Ailen of Pittsfield.

eral Schuyler, agreeably to the orders sent to that effect by General Lincoln, was not actuated merely by personal feelings, or a selfish purpose to maintain his separate command. He disapproved, on the soundest military principles, of Schuyler's plan of the campaign, which was to concentrate all the troops, which he could collect in front, and leave Burgoyne's rear undisturbed. Stark, on the contrary, saw, that nothing would more effectually weaken him, than to hang on his rear, and compel him to make strong detachments for observation and security. General Washington concurred in this view of the subject. Stark, however, had, on the 13th of August, and before the resolution of Congress censuring his conduct had passed, communicated his willingness to General Schuyler to coöperate with him in the impending crisis, without any regard to his personal griefs, and in any way, in which the public welfare might require it.

This most important affair, however, was but an incidental circumstance in the campaign. A general call had gone out to New England, in consequence of the disastrous downfall of Ticonderoga. General Stark remained nearly a month at Bennington after the battle, and received a reinforcement of one thousand of the militia ; but, as his former troops had enlisted for a short period, their term of service had nearly expired. General Stark finally proceeded to head-quarters, and en

ered the army of General Gates, at Behm's Heights. But on the 18th of September, the period for which most of his men were drafted had expired. Gates was desirous to retain them, as he was in daily expectation of a battle. They were drawn up and harangued by him and by their own general, Stark, but without effect. They had been raised *en masse*, and had left their homes greatly to their own inconvenience, and their time had expired. They had expressly stipulated that they should know no commander but Stark, as he had stipulated that he should not be placed under the Continental officers. He was now willing to waive this scruple, but they were not. Finally, General Gates was already so strong, that it was not easy to make out a case of very urgent necessity. With all these excuses, it is not very surprising, that the militia insisted upon being marched home, and that all efforts to detain them were unavailing.

Scarcely had they started, when the action of the 19th was commenced. At the sound of the artillery many turned, and would have gone back to the army. But as the firing ceased, they resumed their homeward march. General Stark, holding no commission in the Continental army, and left without soldiers, returned, to make report of his campaign to the Council of New Hampshire. Wherever he went, he received demon

strations of the popular gratitude ; and Congress soon honored him with their thanks, and the rank in the army, of which he had thought himself, in the spring, injuriously deprived.

He now addressed himself, with new zeal and efficiency, to the public service. His victory at Bennington had added great influence to his name, and breathed hope and courage into the people. The militia were now ready to rise in all quarters, and pour into General Gates's army, in the undoubting confidence of the speedy destruction of Burgoyne. General Stark was soon enabled to take the field, with a more numerous force than he had commanded before. Acting upon his former policy, he placed his army in the rear of the enemy, and wholly cut off their communications with Lake George and Canada. No circumstance contributed more to accelerate the fall of Burgoyne, as it baffled him in his attempted retreat, after the battle of the 4th of October. In fact, it nearly completed the circle in which Burgoyne was enclosed ; and General Stark was of opinion, that he might have been compelled to surrender at discretion. The state of his army, as disclosed after its capitulation, puts this beyond doubt ; but as all the substantial objects of such a surrender were attained by the capitulation, without the hazard of driving the enemy to despair, it was adopted as the safer course.

The war in this quarter being brought to a triumphant close, and General Stark reinstated in the Continental service, he repaired to New Hampshire for recruits and supplies. In a short time, his services were required by Congress on a proposed expedition, of which the history is wrapped in some obscurity. Congress, without consulting General Washington, conceived the plan of another expedition to Canada, to be commenced, like the former, in mid winter. Without any previous information, that such an expedition was intended, General Washington received a letter from the President of the Board of War, of the 24th of January, 1778, enclosing one of the same date to General Lafayette, requiring the immediate attendance of the latter on Congress, to receive his instructions, as commander-in-chief of the expedition. Generals Conway and Stark were to have been the second and third in command. Lafayette, after receiving his instructions, repaired to Albany, and there General Stark was directed to meet him. On their arrival, it became manifest that no preparations had been made for pursuing the project, and it was accordingly abandoned.

The command in the Northern department was intrusted to General Stark in the spring of 1778. The number of troops at his disposal was small, and he was obliged to protect with them an extensive and important frontier. His station at Albany

imposed on him the unpleasant duty of watching the disaffected, the spies, and the adventurers of all descriptions, that were preying on the public, in this important district. He was glad to escape from the annoyances resulting from his position, and willingly received an order to join General Gates in Rhode Island. Here he was posted at East Greenwich, where the militia were chiefly stationed, a post for which he was eminently qualified, by his popularity with that branch of the army. At the close of the campaign, he returned through Boston to New Hampshire, to enforce, by his presence and urgency, the call for recruits and supplies.

In the spring of 1779, he returned to the army in Rhode Island, and by direction of General Gates instituted a *reconnoissance* of the coast, from Mount Hope on the east, to Point Judith on the west. The military force in this district was small, and more than ordinary vigilance was required to keep up a proper observation of the enemy. Indications of a movement being perceived in the autumn, he removed his head-quarters from Providence to Point Judith, but rarely slept more than a single night in a place.

Late in October, the enemy were in motion, and the men of General Stark's command were for some days on constant duty. On the 10th of November they decamped from Rhode Island,

and early the next morning General Stark took possession of Newport, to protect the inhabitants of that place from plunder, and the other consequences of a change in the military occupation of the town. Shortly afterwards Generals Gates and Stark, with all their troops, excepting a small garrison, were ordered to reinforce General Washington in New Jersey. In the month of December the main army was thrown into two divisions for the winter, the Northern and the Southern; — the former of which was placed under General Heath, whose head-quarters were at West Point, and the latter under General Washington himself, whose head-quarters were fixed at Morristown, in New Jersey.

General Stark was employed by the Commander-in-chief, while the troops remained in winter-quarters, on his accustomed errand to New England for recruits and supplies. In May, 1780, he rejoined the army at Morristown. He was present at the battle of Springfield, in New Jersey, which occurred shortly after his return. At this period Count Rochambeau, with his fleet, appeared on the coast. Stark was sent into New England to collect, if possible, a body of militia and volunteers, to reinforce the army at West Point. This object he effected with his usual energy, and reached West Point, while General Washington was absent at Hartford, whither he had repaired

to hold a conference with Count Rochambeau, as to the combined operations of their forces. This was shortly before the defection of Arnold. Having delivered up his reinforcements, General Stark rejoined his division in New Jersey ; but, in the month of September, he was ordered with his brigade to relieve General Saint Clair, who had occupied West Point with the troops of the Pennsylvania line, after Arnold's flight.

While at West Point, it became his painful duty to act on the court-martial, by which Major André was condemned as a spy. He felt the hardship of the case, but joined his brother officers, in the unanimous opinion, that the life of this unfortunate officer was forfeited by the laws of war, and that the interests of the country required, that the forfeit should be paid.

About this time General Washington, having formed a project to surprise Staten-Island, with a view to masking his intentions, ordered General Stark, with a detachment of twenty-five hundred men and a heavy train of wagons, to advance as near as possible to York Island, bring off all the corn and forage that could be collected, and hover about the approaches to the city, till they should be ordered back. The British appear to have suspected some concealed design, for they suffered this detachment to range the country up to Morrisania and Kingsbridge, and then quietly to return

with their booty. Having received a despatch from General Washington, brought by Colonel Humphreys across the ferry at Paulus Hook a stormy night, informing them, that the expedition against Staten-Island was abandoned, General Stark drew off his forces and returned to headquarters. Shortly after this period, the army went into winter-quarters at West Point, New Windsor, and Fishkill.

During the summer of 1780, General Stark joined his brother officers in one of those touching and powerful appeals to Congress, on the distressed state of the army, with which the annals of the Revolution abound. The arrival of the French auxiliary forces brought home to the minds of the American soldiery, officers and men, a painful contrast of condition. The French troops were liberally paid in specie, the American troops received a compensation, at best inadequate, in paper which was worthless. The officers were almost without exception of a class of men, dependent on their industry and exertions in their various callings and pursuits, for the support of themselves and their families. While they were withdrawn from home, their professions, their farms, and pecuniary affairs necessarily went to decay, and their families were straitened. Their appointment as officers frequently yielded them not even the decent comforts of life for themselves at the camp. Men, "whose

tables once abounded with plenty and variety," were, in consequence of devoting themselves to the service of the country, compelled "to subsist, month after month, upon barely one ration of dry bread and meat, and that frequently of the meanest quality, their families looking to them in vain for their usual support, and their children for that education, to which they once had a title."

These painful expostulations produced for the present no beneficial effect. The difficulty was perhaps less than is generally supposed in the real poverty of the country, though it would be paradoxical to deny, that the country was poor. But the soil was as fertile then as now. The number of persons withdrawn from the peaceful and productive pursuits of life, and engaged in the military service of the country, was not large enough, either by the loss of their labor or the burden of their support, to make three millions of people poor. The regular foreign trade of the country was destroyed ; but it had never yet been the great interest which it has since become, and its place was partly supplied by privateering, which was probably carried on much to the advantage of the United States. The subsistence of the enemy's armies was eventually a great branch of business, profitable to the country, although the circulation of the capitals employed in it, was of course impeded by political causes. All these considera-

tions show sufficiently, that the extreme public poverty, which forms so prominent and painful a topic in the state-papers of the Revolution, was a poverty not of the people but of the government. The government had no power. The property belonged to the people, and the government could not act on the people. Its only action was on the States, and the States in a mere financial view were metaphysical existences. They had no money, and were subject to no process. The bitterness of the experience, which our fathers had of the evils of such a system, explains their readiness, heightened as they were on the subject of taxation, to clothe the new government, formed by the federal constitution, with a direct control, under constitutional limits, over the property of the citizen.

Failing in their application to Congress, some of the general officers from New England addressed a memorial to their several States, at the close of the year 1780. It is a powerful and interesting document. The name of General Greene stands at the head of the signers, and that of General Stark is among the number. This able document, like that last mentioned, may be found in the Appendix to the interesting Memoir of General Stark, to which we have so often had occasion to refer.

The health of General Stark was seriously impaired at the close of this campaign. He was now beyond the meridian of a life, almost the whole of

which had been a scene of hardship. One of the pioneers of civilization on a savage frontier, a hunter, a clearer of the soil, a ranger through the Seven Years' War, and already for five years engaged in that of the Revolution, it is not to be wondered at, that he found his constitution, strong as it was, not insensible to the trials, to which he subjected it. He thought seriously, at the close of the campaign of 1780, of retiring from the service, and endeavoring to restore his health, in the cultivation of his farm. He communicated his feelings to General Sullivan, with his views of the provision which Congress was bound to make for officers who retired disabled from the service. On the advice of General Sullivan, he went no further, than to ask a furlough for the winter. This was readily accorded to him. Relaxation from the pressure of active duty accomplished the only object he had in view in retiring; and he was prepared, on the return of spring, to resume his post, with recruited health, and new ardor in the public service.

In the month of June, 1781, General Stark was designated by the Commander-in-chief to command the Northern department. His head-quarters were fixed at Saratoga. The force at his control for the protection of the frontier was but inconsiderable, consisting of small detachments from the militia of New York, New Hampshire, and Massachu-

setts. The post was by no means an enviable one. The country was, in this part of it, overrun by spies and traitors. Robberies were of frequent occurrence, and unarmed citizens were sometimes surprised in their houses, and carried prisoners into Canada. General Schuyler's house was robbed, and two of his servants were carried into Canada. The General saved himself by retreating to his chamber, barricading his door, and firing upon the marauders. The militia of Albany were roused by the noise, but the plunderers escaped.

Shortly after General Stark established his headquarters at Saratoga, a party of these brigands was discovered within the lines, unarmed, and a British commission was found upon their commander, Thomas Lovelace, a refugee from the States. He was brought before a court-martial, was tried, and condemned as a spy ; and the sentence was carried into effect the following day. This individual having family connexions in the neighborhood, a remonstrance was addressed by them to the Commander-in-chief, and threats were circulated of procuring retaliation to be made. General Washington directed a copy of the proceedings to be sent to him ; but no further notice was taken of the affair.

Another of the party, on a promise of pardon, gave information that they belonged to a band of fifteen, who had come from Canada, as plunderers

and spies, and scattered themselves through the country, to ascertain the state of affairs, and collect intelligence for the British general commanding in Canada, who meditated an incursion into New York. He stated, that they had left their boats on the shores of Lake George. A lieutenant was despatched, with a sufficient force, and with the prisoner as a guide, and ordered to wait five days, and surprise the party on their return to their boats. This officer found the boats, but, after having waited one day, the prisoner escaped. Fearful for his safety, the officer disobeyed the orders which he had received, to wait five days, and immediately returned. It was afterwards ascertained, that the party returned in two days, and might all have been surprised.

General Stark was at his post at Saratoga, when the army of Cornwallis surrendered at Yorktown. Writing to General Schuyler, a few weeks before that event, he expresses a confident assurance, that it would take place, and his regret at not sharing in the glory of the triumph, which he foretold for his country's arms. After this memorable event, which brought the war to a virtual close, and removed all danger of an inroad upon the Canada frontier, General Stark dismissed the militia to their homes, with his thanks for their good conduct ; and, having taken measures for the security of the public property, was directed himself to repair to New

England by the way of Albany, and to exert himself during the winter in raising men and supplies for the ensuing campaign. He did not, however, himself take the field in 1782. The season passed away without active military operations; negotiations for peace were known to be on foot, and were brought to a provisional close, in the autumn of that year. These considerations, with the state of his health, greatly impaired by attacks of rheumatism, prevented his joining the army till ordered to do so by General Washington, in April, 1783. He reported himself at head-quarters on the day appointed, and received the thanks of General Washington for his punctuality. He exerted his best influence, with that of his brother officers, to allay the discontent which existed in the minds of the army, and which was studiously fomented by the famous Newburg Letters. He had, at a former period, been, on his own account, dissatisfied with the policy pursued by Congress; and some of his letters manifest the persuasion, on his part, that the interests of the army were not cordially promoted by that body. But his distrust was overcome by the progress of events. Congress had exerted itself to the utmost, to meet the reasonable wishes of officers and men, and Stark was particularly solicitous, that the close of the glorious drama should be sullied by no discreditable or unpatriotic act on the part of his associates.

When the army was finally disbanded, he retired to private life, carrying with him an honored name. He devoted himself, for the residue of his days, to the care of his farm, and the various duties, which devolved upon him, as the head of a numerous family. Leading the life of a real Cincinnatus, he declined associating himself with the Society, formed by the officers of the newly disbanded army, under that name. He shared the apprehensions, which prevailed so widely, of the dangerous tendency of that institution; and he had something severe and primitive in his taste, which disinclined him from its organization.

From the close of the revolutionary war, no incident of public importance marks the life of General Stark. He gradually descended the vale of years, an object of respect due to age, patriotism, integrity, and public service of the most brilliant cast, in trying times. His life was prolonged, beyond any expectation which could reasonably be formed of one, whose early years were one unbroken series of hardship and exposure. He attained the unusual age of ninety-four. For many years before his death, he had become, in the best sense of the word, a privileged character. One of the few surviving officers of the Revolution, he was regarded as the personification of its spirit, in the neighborhood in which he lived. He was visited by strangers; and the most eminent

men in the country took a pride in paying him the homage of their respects. The Memoir of his Life contains letters of Messrs. Jefferson and Madison, expressive of the interest taken by these distinguished statesmen in this venerable hero, and their willingness to encourage an attachment on his part towards themselves.

The war of 1812 came upon General Stark at a period of advanced age, when it was, of course, impossible for him to engage for a third time in the public service ; but he watched its progress with interest. He was informed that the field-pieces, which he had taken at Bennington, were surrendered to the enemy at Detroit, when the army of General Hull capitulated at that place. The history of these cannon is somewhat singular. They were of French fabric, and, being found at Quebec, were brought by General Burgoyne from Canada, and formed the field artillery of Colonel Baum. Having been taken by General Stark at Bennington, they were inscribed with the date of the battle, August 16th, 1777. On the capitulation of Hull, they fell into the hands of the British, by whom they were transported to Fort George, at the mouth of the Niagara. On the fall of that fortress, they passed again into the possession of the Americans, and were sent by Major-General Dearborn to Sackett's Harbor, where they were used in firing a salute, on occasion of General

Harrison's victory over General Proctor, in the battle of the Thames. They are now said to be at Washington. When Stark heard, that "his guns," as he called them, were taken at Detroit, he expressed great feeling, and regretted that his age and infirmities prevented his taking the field himself.

In the year 1809, an invitation was sent to General Stark, by the inhabitants of Bennington and its vicinity, to join them in the celebration of the anniversary of the battle. More than sixty of those, who had been engaged in the action, attended the meeting, at which the arrangements for the celebration were made. But he was then eighty-one years of age, and the state of his health prevented his accepting the invitation. The committee, in requesting his attendance, expressed the wish, that "the young men of Bennington might have the pleasure of seeing the man, who so gallantly fought to defend their sacred rights, their fathers and mothers, and protected them while lisping in infancy." In reply to this portion of the letter of invitation, the aged hero observed, "You say you wish your young men to see me; but you, who have seen me, can tell them, that I was never worth much for a show; and certainly cannot be worth their seeing now."

At length, on the 8th of May, 1822, his long and eventful life was brought to a close, at the age

of ninety-four. With the exception of Sumpter, he was the last of the American generals of the Revolution. His funeral was attended with military honors, by a large concourse of people, at the place of his residence, in Manchester on the Merrimac river. His remains were deposited in a tomb, which, within a few years, had been erected at his request, upon a rising ground on the second bank of the river, and visible at a distance of four or five miles, up and down the Merrimac. On the 4th of July, 1829, a monument was erected by his family upon this spot. It consists of a block of granite in the form of an obelisk, with the simple inscription, "MAJOR-GENERAL STARK."

In person, General Stark was of about the medium size, and well proportioned. In his early years he was remarkable for his strength, activity, and ability to bear fatigue. He was seasoned in his youth to the hunter's and woodman's life. In the French war, a single bear-skin and a roll of snow were not uncommonly the ranger's bed. He was remarkable through life for his kindness and hospitality, particularly to his reduced companions in arms. It is justly mentioned as an extraordinary circumstance in his life, that frequently as he was engaged in battle in two long wars, he never received a wound.

The Memoir, to which we have been so largely indebted, closes with the following sentences ; —

“His character in his private was as unexceptionable as in his public life. His manners were frank and open; though tinged with an eccentricity peculiar to himself and useful to society. He sustained through life the reputation of a man of honor and integrity, friendly to the industrious and enterprising, — severe to the idle and unworthy. Society may venerate the memory of an honest citizen, and the nation that of a hero, whose eulogy is in the remembrance of his countrymen.”

LIFE
OF
WILLIAM PINKNEY
BY
HENRY WHEATON

WILLIAM PINKNEY

WILLIAM PINKNEY was born at Annapolis, in the State of Maryland, on the 17th of March, 1764. His father, whom he always spoke of as a man of firm temper, and of a strong, original cast of mind, was an Englishman by birth, and took the part of the parent country during the war of the revolution. The boyish ardor or wilfulness of young Pinkney was pleased with the adoption of opposite sentiments, and he avowed, even in his early youth, his ardent attachment to the liberties of America. One of the freaks of his patriotism was to escape from the vigilance of his parents, and mount night guard with the soldiers in the fort at Annapolis. He retained to the end of his life a strong partiality to his native town, and took a pleasure in pointing out to his intimate friends, especially the young, the scenes of his childish toils and sports.

His early education was imperfect; but this was probably less owing to the narrow circumstances of his father, who spared no pains for his

son, than to the distracted state of the country at that period. He was initiated in classical studies by a private teacher of the name of Braithand, who left the country on account of the disturbances then commencing. The affection, which his pupil always continued to entertain for him, was warmly reciprocated by the preceptor, who, after the lapse of several years, expressed the greatest pleasure in meeting in England a friend of Pinkney, and was eager in his inquiries about him. "One of my greatest regrets," said he, "in leaving America, was that I had to part from my promising pupil."

They, who remember him at this period of life, describe him as already animated by that haughty impatience of a superior, which characterized him at a later day, and which was, in some degree, the strength and the weakness of his character. This temper was not confined to the rivalries of study, but extended to the rougher competitions of boyhood. One anecdote of the former he used to relate of himself, as a *ruse*, which might be pardoned in a youth. There was a debating club at Annapolis, of which Pinkney was a member. A question had been assigned for discussion on a certain evening, when all the polite company of the town was expected to attend; and our young orator repaired to a secluded spot in the vicinity, to prepare himself in solitude for the

coming contest. His antagonist in the debate, who was ever his chief competitor in the club, was there, however, before him; and our aspirant took the benefit of some friendly screen to overhear his preparatory declamation unobserved. "The result," said he, "was brilliant. In the evening, my antagonist's speech, which was well enough seasoned with rhetoric, was received with acclamation. But when I came to make my *extemporaneous* reply, which I had very earnestly prepared during the day, I was at home, as you may guess, on every point. The night was mine, and thenceforth I was King of the Club."

He had commenced the study of medicine under Dr. Goodwin, then an extensive practitioner in Baltimore; but soon found that he had mistaken his vocation, and resorted to that of the law, under the direction of Samuel Chase, afterwards one of the Judges of the Supreme Federal Court, and then at the head of the Maryland bar. Mr. Chase happened to be present at a meeting of another debating society, of which young Pinkney was a member. Struck with the talents displayed by him on this occasion, that gentlemen advised him to the study of the law, inviting him back to Annapolis, where the Superior Courts were held, and offering him the free use of his library, and whatever other aid he could afford him. The province of Maryland was distinguished among the other

colonies by a succession of learned and accomplished lawyers; and Burke has observed, in his speech on Conciliation with America, how popular and widely diffused were law studies in all of them, especially after the publication of the classical Commentaries of Blackstone, of which nearly as many copies were sold in this country as in England. With such a guide, and in such a school, his studies were of no superficial kind.

He commenced his law studies in 1783, and was called to the bar in 1786. His very first efforts seem to have given him a commanding place in the eye of the profession and the public. A knowledge of the law of real property, and of the science of special pleading, were then considered as the two great foundations of legal distinction. His attainments in these branches were accurate and profound, and he had disciplined his mind by the cultivation of that species of logic, which contributes essentially to invigorate the reasoning faculty, and enables it to detect those fallacies, which are apt to impose upon the understanding in the warmth and hurry of forensic discussion. His style in speaking was, at that period, marked by an easy flow of natural eloquence and a happy choice of language. His voice was melodious, and seemed a most winning accompaniment to his pure and effective diction. His elocution was calm and placid; the very contrast of that strenu-

ous, vehement, and emphatic manner which he subsequently adopted.

Mr. Pinkney was elected, in 1788, a delegate from the county of Harford to the Convention of the State of Maryland, which ratified the Constitution of the United States proposed by the General Convention at Philadelphia. In the same year, he was chosen to represent the county in the House of Delegates at Annapolis, which seat he continued to fill until the year 1792.

In 1789, he was married at Havre de Grace to Miss Ann Maria Rodgers, daughter of Mr. John Rodgers of that town, and sister to that distinguished officer Commodore Rodgers, the President of the Navy Board.

In 1790, he was elected a member of Congress. His election was contested upon the ground that he did not reside in the district for which he was chosen, as required by the law of the State. But he was declared duly elected, and returned accordingly, by the Executive Council, upon the principle that the State legislature had no authority to require other qualifications than those enumerated in the federal constitution; and that the power of regulating the times, places, and manner of holding the elections, did not include that of superinducing the additional qualification of residence within the district for which the candidate was chosen. He made on this occasion a

cogent argument in support of his own claim to be returned, but declined, on account of his professional pursuits and the state of his private affairs, to accept the honor which had been conferred upon him.

At the first session of the legislature of Maryland, after his election as a member of the House of Delegates in 1788, he made a speech upon the Report of a Committee appointed to consider the laws of that State prohibiting the emancipation of slaves by last will and testament, or in any other manner during the last sickness of the owner. This speech breathes all the fire of youth, and a generous enthusiasm for the rights of human nature, although it may not perhaps be thought to give any pledge of those great powers of eloquence and reasoning, which he afterwards displayed in his mature efforts. At the subsequent session in 1789, he delivered a speech on the same subject, which, as he himself said in a letter to a friend, written at the time when his consistency was impeached for the part he took in the Missouri question, is "much better than the first speech and for a young man is well enough."

Neither of these juvenile orations, however, grapples with the real difficulties of the subject, or tends to solve the problem, how the entire emancipation of the African race, in a country where it is predominant in point of numbers, can be reas-

cled with the safety of the white population ; or how it is to find its equal place in a society, where inveterate prejudices, founded on indelible physical distinctions, (it is to be apprehended) must ever retain it in the abject condition of a despised and oppressed caste. The more mature and ripened judgment of Mr. Pinkney, as a statesman, seems to have ultimately settled down into the conviction that colonization was the only practicable remedy, from which the removal of this plague-spot could even be hoped for ; and we shall hereafter see, that his opinions on the subject of slavery underwent so great a modification as to incur the reproach of inconsistency on a subject, which, as a constitutional lawyer, he regarded as exclusively of local State cognizance, with which the federal authority had no right to intermeddle, not even to the extent of annexing the local prohibition of slavery as a condition to the admission of new States into the Union.

In 1792, Mr. Pinkney was elected a member of the Executive Council of Maryland, and continued in that station until November, 1795, when, being again chosen a delegate to the State legislature, he resigned his seat at the Council-board, of which he was at that time President.

During all this period he continued indefatigably devoted to his professional pursuits, and gradually rose to the head of the bar, and to a

distinguished rank in the public councils of his native State. His acuteness, dexterity, and zeal in the transaction of business; the extent and accuracy of his legal learning; his readiness, spirit, and vigor in debate; the beauty and richness of his fluent elocution; the manliness of his figure, and the energy of his mien, united with a sonorous and flexible voice, an animated and graceful delivery, are said to have been the qualities by which he attained this elevated standing in the public estimation. But there remain no other memorials of his professional character at this period of his life, than such as have been preserved in the fleeting recollections of his cotemporaries; in the written opinions which he gave upon cases submitted to him as counsel, and which often embraced elaborate arguments upon the most difficult questions of law; and in the printed Reports of the Court of Appeals. It is, however, obviously impossible to form any adequate notion of the powers of an advocate from these papers, or from the necessarily concise sketches of the arguments of counsel contained in the books of Reports. But an argument which he made before the Court of Appeals in 1793, upon the question whether the statute of limitations is a bar to the issue of tenant in tail, may be referred to as a specimen of the accuracy and depth of his legal learning, and c'

his style and peculiarly cogent manner of reasoning upon legal subjects.*

In 1796, he was selected by President Washington as one of the commissioners on the part of the United States under the seventh article of Mr. Jay's treaty with Great Britain. After consulting with his friends, he determined to accept this appointment, which had been spontaneously tendered to him. He accordingly embarked for London with his family, where he arrived in July, 1796, and was joined by Mr. Gore, the other commissioner on the part of our government. The Board, having been organized by the addition of two English civilians, Sir John Wichell and Dr. Swabey, and of Mr. Trumbull, a citizen of the United States appointed by lot, proceeded to examine the claims brought before it. Various interesting questions of public law arose, in the course of this examination, respecting contraband of war, domicile, blockade, and the practice of the prize courts, which were investigated with great learning and ability by the commissioners. Mr. Pinkney's written opinions, read at the Board, are finished models of judicial eloquence, uniting powerful and comprehensive reasoning with profound knowledge of international law, and a copious, pure, and energetic diction. The theory of the

* Harris and M'Henry's Reports, Vol. III. p. 270.

conclusiveness of the judgments of Admiralty courts, with the appropriate limitations of its application, has, I think, nowhere been more profoundly and satisfactorily discussed, than in the opinion delivered by him in the case of *The Betsey*, in contradiction to that of Sir John Wichell, who maintained, that compensation for the capture ought not to be allowed in that case by the commissioners, because, the sentence of condemnation pronounced in the inferior court having been affirmed by the Lords of Appeal in Prize Causes, conclusive credit ought to be given to it, inasmuch as, according to the general law of nations, it must be presumed that justice had been administered by the competent tribunal of the capturing state ; and the treaty had not varied this general rule of international law, having engaged to afford relief only in cases, (either existing at the time of its signature or before the ratification,) in which, from peculiar circumstances belonging to them, adequate compensation could not then be obtained in the ordinary course of justice.

Mr. Pinkney was also engaged, during his residence abroad, in attending to the claim of the State of Maryland for a large amount of public property, invested in the stock of the Bank of England before the revolution, which had become the subject of a complicated Chancery litigation. He at last succeeded in extricating

the stock from this situation by an arrangement, under which it was, with his consent, adjudged to the crown, with an understanding, that, after the payment of the liens upon it, the balance should be paid over to the government of Maryland.

His residence in England was protracted far beyond his expectations or wishes, as he was anxious to return to his native country and his profession. This anxiety was feelingly expressed in his epistolary correspondence with his private friends. In a letter, dated August, 1800, to his brother, he says; "It is time for me to think seriously of revisiting my country, and of reviving my professional habits. I shall soon begin to require ease and retirement; my constitution is weak, and my health precarious. A few years of professional labor will bring me into *the sear and yellow leaf* of life; and if I do not begin speedily, I shall begin too late. To commence the world *at forty* is indeed dreadful; but I am used to adverse fortune, and know how to struggle with it; my consolations cannot easily desert me,—the consciousness of honorable views, and the cheering hope that Providence will yet enable me to pass the evening of my days in peace. It is not of small importance to me, that I shall go back to the bar cured of every propensity that could divert me from business, stronger than when I left it, and, I trust, somewhat wiser. In regard

to legal knowledge, I shall not be worse than if I had continued in practice ; I have been a regular and industrious student for the last two years and I believe myself to be a much better lawyer than when I arrived in England. But I shall not grow much wiser or better by a longer stay. I am become familiar with almost every thing around me, and do not look out upon life with as much intenseness of observation as heretofore ; and of course, I am now rather confirming former acquisitions of knowledge than laying in new stores for the future. I begin to languish for active employment. The commission does not occupy me sufficiently, and visiting, &c., with much reading, cannot supply the deficiency. My time is always filled in one way or other, but I think I should be the better for a *speech* now and then. Perhaps another twelve months may give me an opportunity of making *speeches* till I get tired of them, and tire others too."

In another letter written in August, 1803, to his friend, Mr. Cooke, he expresses the same sentiments, with his apprehensions that what has been by some since called the "civil revolution," which brought Mr. Jefferson into power at the head of the democratic party, might sever the ties of friendship which had connected him with several leading individuals of the opposition. "I am prepared," he says, "on my return, to find the

spirit of party as high and phrensied as the most turbulent would have it. I am even prepared to find a brutality in that spirit, which in this country either does not exist, or is kept down by the predominance of a better feeling. I lament with you that it is so ; and *I wonder* that it is so ; for the American people are generous, and liberal, and enlightened. We are not, I hope, to have this inordinate zeal, this extravagant fanaticism, entailed upon us ; although one might almost suppose it to be a part of our political creed, that internal tranquillity, or rather the absence of domestic discord and a rancorous contention for power, was incompatible with the health of the state and the liberty of the citizen. I profess to be temperate in my opinions, and shall put in my claim to freedom of conscience ; but, when both sides are intolerant, what hopes can I have that this claim will be respected ? I do not desire *office* ; although I have no such objections to the present administration, as, on what are called, party principles, would induce me to decline public employment. It is my wish to be a mere professional laborer, to cultivate my friends and my family, and to secure an honorable independence before I am overtaken by age and infirmity. My present intention is to fix in Baltimore, where I will flatter myself I shall find some, who will not regret my choice of residence."

On his return to the United States in August, 1804, Mr Pinkney executed his purpose of removing to Baltimore, and began to attend the federal Supreme Court at Washington. He continued to devote himself with unwearied assiduity to his professional pursuits. During his long residence in England, he had never laid aside his habits of diligent study, and had availed himself of his opportunities of intercourse with the accomplished lawyers of that country, and of frequenting the courts of Westminster Hall, to enlarge and improve his legal attainments. He was, by his public station, brought into immediate contact with most of the English civilians, and was much in the society of that accomplished and highly gifted man, Sir William Scott. He had occasion to witness the forensic efforts of Erskine, then in the meridian of his fame. He was in the constant habit of attending the debates in the two houses of Parliament, whilst Fox and Pitt still shone forth as the brightest luminaries of British eloquence. A higher standard of literary attainments was held up to his observation. He employed his leisure hours in endeavoring to supply what he now found to be the defect of his early education, by completing his knowledge of English and classical literature. He devoted peculiar attention to the subject of Latin prosody and English elocution ; aiming, above all, to acquire a

critical knowledge of the living English tongue, its pronunciation, its terms and significations, its synonymes, and, in short, its whole structure and vocabulary. By these means, he added to his natural eloquence and fluency a copiousness and variety of diction, which graced even his colloquial intercourse, and imparted new strength and beauty to his forensic style.

In April, 1806, he was again called into the public service of his country abroad by circumstances, which were even then deemed to be of serious concern, but which ultimately involved our republic in that war with Great Britain, which has given a new coloring and character to our subsequent political existence.

In the course of the ensuing year after his return from England, several cases of the capture of our merchant vessels, engaged in carrying the produce of the colonies of the enemies of Great Britain to Europe, had occurred, which threatened the total destruction of that branch of our neutral carrying trade. These seizures were grounded upon a revival by the British government of a doctrine, which had acquired the denomination of "the Rule of the War of 1756," from the circumstance of its having been first applied by the Prize Court during that war. The rule was suffered to lie dormant during the war of our revolution, probably from the fear of exciting the

hostility of the maritime powers who subsequently formed the league of armed neutrality. It was revived during the first war of the French revolution in 1793, and extended to the entire prohibition of all neutral traffic with the colonies and upon the coasts of the enemy. But, as indemnity was given by the board of commissioners under Mr. Jay's treaty for captures made upon this pretext, and as it had been expressly admitted in Lord Hawksbury's letter to Mr. King of April 11th, 1801, (enclosing Sir John Nicholl's official report as Advocate-General,) that the colonial trade might be carried on by neutrals circuitously, and that landing the cargo in a neutral port broke the continuity of voyage so as to legalize the trade thus carried on, there was the more reason for surprise and complaint on the part of the government and people of this country at this sudden and unexpected attack upon their accustomed trade.

The revival and extended application of "the Rule of 1756" gave rise to numerous polemic publications on both sides of the Atlantic; in which the respective pretensions of England and America were elaborately discussed. Among these was an ingenious pamphlet entitled "War in Disguise, or the Frauds of Neutral Flags," written by Mr. Stephen, an English barrister, well known for his enthusiastic zeal in the cause of the abolition of

West India slavery, and who was supposed to enjoy the confidence of the ministry then in power. This production was examined, and its reasonings combated, by a very able writer in the *Edinburgh Review*.* It was also answered by Gouverneur Morris, in a pamphlet characteristic of that statesman's peculiar genius and political prejudices; and the whole subject was afterwards thoroughly discussed by Mr. Madison, then Secretary of State, in an elaborate work entitled "An Examination of the British Doctrine, which subjects to Capture a Neutral Trade not open in Time of Peace."

Different memorials were presented from the various commercial cities of the Union, remonstrating against this dangerous pretension, and pledging the support of the trading interests to such measures, as the government might think fit to adopt, to resist it, as incompatible with the just rights and independence of the country. Among these, was an argumentative and eloquent Memorial from the merchants of Baltimore, drawn up by Mr. Pinkney, who had found occasion to study this question when a member of the board of commissioners under the British treaty of 1794.

In this paper he conclusively shows, by an elaborate historical deduction, accompanied with a searching analysis of judicial precedents, that the

* Vol. VIII. No. 15, for April, 1806.

doctrine in question was never heard of until the war of 1756; that it was then rested upon the peculiar ground of *adoption* or naturalization, by which neutral vessels, engaged in the colony trade of France, were considered by the British courts of Admiralty as having forfeited their original national character, by being incorporated into the enemy's navigation with all its privileges, just as an individual neutral merchant is considered as losing the immunities of his native character by permanent residence in the belligerent country. He also proves, that during the war of the American revolution, the doctrine was expressly disavowed by the British prize tribunals, and that this solemn renunciation was powerfully confirmed by the acquiescence of Great Britain, during the first and most important and active period of the war which was terminated by the peace of Amiens, in the free and unlimited prosecution by neutrals of the whole colony trade of France; and, when she did, at last, interrupt it by orders of council, secretly issued and suddenly executed, she made ample amends for this breach of good faith and public law, into which she had been inconsiderately betrayed.

The leading part taken in this interesting discussion by Mr. Pinkney, and the thorough knowledge of the subject shown in this paper, together with the valuable experience he had acquired

during his former residence in England, induced President Jefferson to invite him to assist in the negotiation already commenced by Mr. Monroe, then our resident envoy in London, on this and the other important points of difference between the two countries. With this view, he was appointed in April, 1806, jointly with Mr. Monroe as minister plenipotentiary to treat with the British government on these subjects. He, therefore, once more abandoned his professional pursuits, and embarked in the month of May, with his family, for England.

The moment *seemed* to be propitious for a satisfactory adjustment of the complicated difficulties which had arisen between the two countries. Mr. Fox, after having been banished from the royal presence and confidence for more than twenty years, subsequent to the failure of his famous India bill, was once more admitted to a share of power in conjunction with that portion of Mr. Pitt's party who continued to adhere to Lord Grenville after the death of their great leader. Mr. Fox was appointed to the Foreign Office, and one of his first objects was an endeavor to realize his own views of the impolicy of the war with France, which he had so long and strenuously opposed, by opening a negotiation for peace. But this effort at negotiation, wedged between the battle of Austerlitz and that of

Jena, the former of which broke the heart of Pitt, and the latter laid the European continent prostrate at the feet of Napoleon, came too late to stop the resistless tide of conquest which threatened to overwhelm the world.

This awful state of things rendered it the more incumbent on the new ministry to prevent the weight of America, with her vast maritime resources, from being thrown into the scale of France, by doing us justice upon those subjects of complaint which had occasioned so much irritation, the lawless practice of impressing our sea-faring citizens from on board our own vessels on the high seas, the habitual violation of our neutral jurisdiction on the coasts and within the bays, ports, and harbors of the Union, and the multiplied restraints upon our commerce by novel interpretations of public law.

The Lords Holland and Auckland were named by the government to treat on these points, and for a revision of the commercial articles of Mr Jay's treaty with the American envoys. The writer of this biographical sketch has been assured by Mr Monroe, that the British commission, during the whole course of this difficult and delicate negotiation, showed the most candid and conciliatory disposition, at the same time that they were, of course, duly attentive to the interests of their own country. That amiable, enlightened, and

accomplished nobleman, Lord Holland, it is well known to all who have attended to his public career, or enjoyed the advantage of personal intercourse with him, then cherished and still cherishes for the United States and its free institutions those feelings of kindness, which he imbibed from his illustrious relative, Mr. Fox, and which we may be allowed to believe have been confirmed by his own enlightened judgment. Lord Auckland seemed also desirous, by a conciliatory deportment, to remove any injurious impressions which might have been taken up against him during the war of our revolution, but without adverting, on any occasion, to the transactions of those times.

The British negotiators were, however, in the hands of their government, whose orders they implicitly obeyed ; and it is well known that the cabinet itself was made up of a coalition of fragile and discordant materials, all its proceedings being looked upon with extreme jealousy by the opposition of the day. It fell to pieces not long after the death of Mr. Fox, who soon followed his illustrious rival to the grave ; and Mr. Canning came into the Foreign Office, deeply imbued with all those prejudices against every thing American, which he had imbibed in the school of that minister under whose banner he so long served. Mr. Canning acquired his character for liberality

as a statesman long afterwards ; towards America, at least, he was, at this period, neither generous nor just.

Previous to this breaking up of the coalition ministry, (which at last took place upon the obstinate refusal of the king to consent to any measure of Catholic emancipation, however limited, and his requiring a positive pledge from his ministers that they would never mention the subject to him again,) a treaty had been signed on the 31st of December, 1806, by the American, with the British negotiators, which the former, however, declared to be not conformable to their instructions, and concluded merely *sub spe rati* ; whilst the latter accompanied its signature with a declaration of the right of the British government to retaliate upon neutral nations the decree of blockade issued by Napoleon at Berlin on the 21st of November.

The ministry, no longer guided by the pacific spirit of Fox, and as if they were determined to furnish their successors with a precedent for annihilating neutral commerce, (as they had furnished to Napoleon a pretext for his Berlin decree by their previous blockade, of May, 1806, of the coasts from the Elbe to Brest,) immediately followed this declaration with the orders in council of the 7th of January, 1807, establishing a limited blockade of the whole coast of Europe in pos-

session of France and her allies, so as to prevent neutrals from trading from one port to another. Then came the attack on the frigate *Chesapeake*, and President Jefferson sent back the proposed treaty for revision, without submitting it to the Senate.

Mr. Monroe now returned to the United States, leaving Mr. Pinkney as sole minister in England. The prospect of reconciliation with that country, on terms consistent with the interests and honor of the republic, dark as it was before, was now clouded with the additional measure of the orders in council of November, 1807, prohibiting all neutral trade with the ports of France and her allies, or of any other country at war with Great Britain, and with all other European ports from which the British flag was excluded, unless such trade should be carried on through her ports, under her licenses, and paying duties to her exchequer.

The remnant of neutral commerce spared by this edict was effectually destroyed by the retaliatory decree soon afterwards fulminated at Milan by Napoleon, who seized gladly upon this pretext to complete his system of blockade and confiscation, by which he hoped effectually to cut off the commercial and financial resources of England. The two great belligerent powers thus mutually rivalled each other in the work of destroying the

commerce of the only remaining neutral state their indiscriminate violence had left out of the circle of hostility. In vain were the justice and policy of the British orders in council of November arraigned in Parliament by Lord Erskine and other members of the late ministry, who had themselves furnished the precedent and the pattern of that measure in the orders issued in the preceding January on the same pretext of retaliating the Berlin decree. In vain was the wanton attack on Copenhagen assailed by them as subversive of the sacred principles of morality, of public law, and of the soundest maxims of national policy. All other considerations were merged in the apparent necessity of resisting the portentous power of the French Emperor, who, after the victory of Friedland and the peace of Tilsit, wielded the entire resources of the European continent, and directed them to the avowed purpose of subverting the British empire.

The solicitude of Mr. Pinkney to accomplish the intentions of his government in seeking to remove by pacific means those obstacles, which had been thrown in the way of neutral commerce by these violent measures, and his anxiety to vindicate the honor and rights of his country, are apparent, not only from his official correspondence, but from his voluminous private letters to Mr.

Madison, to transcribe which would enlarge the size of this biography beyond its prescribed limits.

But the years 1808, 1809, and 1810, passed away without any adequate return for his zealous and persevering coöperation with the government at home, in endeavoring to avoid that alternative which was at last forced upon us by the obstinate perseverance of the British ministry in their offensive measures. The arrangement concluded at Washington, in April, 1809, for the repeal of the orders in council, upon condition that our non-intercourse should be continued against France until she repealed her decrees, was disavowed by the British government. Fresh cause of irritation was created by the offensive conduct of Mr. Jackson, sent to explain that disavowal; the attack on the frigate Chesapeake still remained unexpiated; the impressment of our seamen and the capture of our vessels were still continued.

His conciliatory endeavors to remove these causes of complaint proved abortive; whilst he was subjected to severe censure at home for the alleged tameness of his remonstrances, which were in exact conformity to the instructions he had received from our government, whose excessive anxiety for peace dictated only the most amicable language in its intercourse with England. In the mean time, the money he had saved from his professional earnings had been absorbed in the

expenses incident to the education of his children in a foreign country, and to maintaining that style of living, which is not only absolutely necessary in a public minister, in order to enable him to reciprocate the civilities of others which he in vain seeks to avoid, but even to perform the duties of his station by keeping up social intercourse with his diplomatic colleagues, and with the members of the government to which he is accredited.

In his letters to his private friends, the effects of these cares upon his health and spirits are expressed with much sensibility, mingled with the strongest feelings of attachment to the scenes and companions of his youth. In a private letter to President Madison, dated in November, 1810, he requests his immediate recall, upon the ground that his salary was utterly inadequate to defray his unavoidable expenses. He adds; "There are other considerations, however, which *ought*, perhaps, to have produced the same effect at even an earlier period, and *would* have produced it, if I had followed my own inclinations rather than a sense of duty to you and to the people. Some of these considerations respect myself individually, and need not be named; for they are nothing in comparison with those which look to my family. Its claims to the benefit of my professional exertions have been too long neglected. Age is stealing fast upon me; and I shall soon have lost

the power of retrieving the time which has been wasted in endeavors (fruitless it would seem) to deserve well of my country. Every day will, as it passes render it more difficult to resume the habits which I have twice improvidently abandoned. At present, I feel no want of cheerful resolution to seek them again as old friends, whom I ought never to have quitted, and no want of confidence that they will not disown me. How long that resolution, if not acted upon, may last, or that confidence may stand up in the decline of life, I cannot know, and will not try. I trust it is not necessary for me to say how much your kindness, and that of your predecessor, has contributed to subdue the anxieties of my situation, and to make me forget that I ought to leave a post, at once so perilous and costly, to richer and to abler hands. Those who know me will believe, that my heart is deeply sensible of that kindness, and that my memory will preserve a faithful record of it while it can preserve a trace of any thing."

Mr. Pinkney still continued to press upon the ministry, of which Marquis Wellesley was the head, the complaints of this country, until, finding that no attention was likely to be paid to his remonstrances, he took leave of the British court in February, 1811, soon afterwards embarked in the frigate *Essex* for the United States, and arrived at Annapolis in the month of June.

On his return, he immediately resumed the labors of his profession with his accustomed alacrity and ardor. In December, 1811, he was appointed Attorney-General of the United States by President Madison. At the term of the Supreme Court following his appointment, came on for hearing before that tribunal a cause of remarkable interest, as involving an important question of public law, our international relations with foreign powers, and the sovereign rights of a foreign nation brought in conflict with the claim of one of our own citizens.

This was the case of the ship *Exchange*, originally a merchant vessel belonging to an American citizen, which had been seized and confiscated by Napoleon, under his decree issued at Rambouillet upon the pretext of retaliating our Non-Intercourse act against France, armed and commissioned in his service, and sent to carry despatches to the East Indies. In the course of its voyage, the vessel was compelled, by stress of weather, to put into the port of Philadelphia, our waters being then open to the ships of war of all the belligerent powers. It was there proceeded against by the original American owners, who reclaimed their property in the ordinary course of justice, and the cause was finally brought, by appeal, before the Supreme Court; the French minister at Washington having insisted, in his correspondence with

our government, that the justice and legality of the original seizure under the Rambouillet decree was a question of state to be settled by diplomatic negotiation between the French and American governments; and that it could not be determined by the ordinary tribunals of justice, especially as the vessel, sailing under the commission of his sovereign, had entered a port of the Union under the general permission to the public armed ships of foreign nations.

The same principle of exemption from ordinary judicial cognizance, for the vessel thus entering our waters, was also maintained by Mr. Pinkney, as Attorney-General, with an extent of learning, and a force of argument and eloquence, which raised him at once in the public estimation, to the head of the American bar. He reasoned to show, that, where wrongs are inflicted by one nation upon another in such tempestuous and lawless times, they could not be redressed by judicature in the exercise of its ordinary powers; that, where the private property of the citizen had been ever so unjustly confiscated in the competent tribunals of a foreign state, a regular condemnation closes the judicial eye upon the enormity of the original seizure; and still less could the courts of justice interfere where the sovereign rights of a foreign prince had intervened, whose flag and commission must be respected by those courts until a jurisdic-

tion over his vessels had been expressly conferred upon them by the supreme legislative power of their own government.

He compared the case then in judgment to the analogous exemptions, laid down by the classical text writers on international law, from the local jurisdiction of the country, of the person of the sovereign, of his envoys, or his fleets and armies, coming within the territorial limits of another state, by its permission, expressed or implied. He insisted upon the equality of sovereigns, and that one sovereign could not submit his rights to the decision of another, or of his courts of justice ; but that the mutually conflicting claims of independent states must be adjusted by diplomatic negotiations or reprisals and war ; that no reprisals had been authorized by our own government in the present instance ; and that the general provisions of the laws of Congress, descriptive of the ordinary jurisdiction of the national tribunals to redress private wrongs, ought not to be so interpreted as to give them cognizance of a case, in which the sovereign power of the nation had, by implication, consented to wave its territorial jurisdiction.

These topics of argument he amplified and illustrated by a variety of considerations, drawn from the impotency of the judicial power to enforce its decisions in such cases ; from the exclu-

sive competence of the supreme sovereign power of the nation adequately to avenge wrongs committed by a foreign sovereign, and to determine when it shall assert, and when it may prudently compromise, its extreme rights ; and from the very nature of the questions growing out of such transactions, as being rather questions of state policy than of jurisprudence, of diplomatic than of forensic discussion, and to be determined by all those delicate and complicated motives which guide the statesman, rather than by those inflexible rules which must be observed by those who preside in the judgment-seat. These topics were made the grounds of the masterly judgment pronounced by Mr. Chief Justice Marshall in this celebrated case, with the unanimous concurrence of the bench ; — Judge Washington uniting with the rest of his brethren in reversing his own sentence pronounced in the Circuit Court, with that perfect candor and willing sacrifice of selfish vanity to the convictions of his better-instructed mind, which adorned the character of that upright magistrate, and shed a new lustre upon the great name he bore.

The organization of the judicial system is one of the most curious and nicely adapted parts of our admirable scheme of federative government. The highest appellate tribunal is invested with an imposing combination of authorities. Besides its

extensive powers as an ordinary court of justice, it administers the law of nations to our own citizens and to foreigners; and determines, in the last resort, every question capable of a judicial determination, arising under our municipal constitution,—including controversies between the members of the Union, and those growing out of conflicts between the fundamental law and ordinary acts of legislation. It is before “this more than Amphictyonic council” that the American lawyer is called to plead, not merely for the private rights of his fellow-citizens, but for their constitutional privileges, and to discuss the conflicting pretensions of State and Federal sovereignties.

It was a rash assertion of an illustrious writer, that there are no discoveries to be made in moral science and in the principles of government. To say nothing of other improvements which the present age has witnessed, mankind is indebted to America for the discovery and practical application of a scheme of federative representative government, which, if it be not adapted to all climes, and to every condition of the many-peopled globe, has, at least so far, “worked well,” and avoided the defects of all preceding confederacies. The extensive and important function assigned to the judicial power in this polity, combined with the peculiar circumstances of our social condition, has

inevitably assigned to the legal profession a large share of public influence.

Generally speaking, the practice of the bar in this country is not confined to particular courts. Our lawyers not being restricted to any particular department of the profession, their technical learning is usually of a more liberal and expansive cast than in the country whence we derived our legal institutions. Their professional habits and technical studies do not unfit them, in any degree, for the performance of the higher and more important functions of statesmen and legislators. There can be no doubt, that, in England, greater skill and nicety of execution are acquired, by the minute subdivision of labor, produced by the state of the profession and the circumstances of society. Hence, we find there more perfect masters of the science of equity, of special pleading, conveyancing, or of the civil and canon laws as they are administered in the admiralty and consistorial courts.

But the peculiar circumstances and social condition of this young country have aroused the active faculties of the people, and imparted a greater flexibility and variety to the talents of its public men ; whilst they have enabled our more eminent lawyers, when called into the public service, to perform all the offices of peace and war with as much ability and success as in those coun-

tries where youth are prepared for the duties of public life by a peculiar system of education, exclusively adapted for that purpose. They have stored their minds with miscellaneous knowledge; and, when removed from the bar into the cabinet or the senate, have generally been found to sustain the reputation they had acquired in a more limited walk.

The infancy of the country, the immature state of society, and the freedom of its political institutions, have all contributed to this result. Society is not yet, if indeed it ever will be, broken into those marked distinctions and gradations of rank and occupation, demanding a correspondent separation of mere professional employments, from those connected with the business of the state; whilst, at the same time, the bar, as in the ancient republics, is the principal avenue to public honors and employments. These peculiar circumstances, combined with the singular nature of the judicature exercised by the Supreme Court in constitutional cases, have advanced the science of jurisprudence in the United States far beyond the general condition of our literature, and raised the legal profession to a higher rank than it enjoys in any other country.

Mr. Pinkney coöperated, as an advocate, in laying the foundations of the system of prize-law, built up by the Supreme Court during the late

war with Great Britain. His extensive learning and peculiar experience in this science contributed essentially to enlighten the judgments of that tribunal on a branch of jurisprudence in which we had few national precedents, and where the elementary writers on public law are extremely deficient in practical details and a particular application of general principles. Among other cases of capture brought for adjudication before that tribunal, was the celebrated case of the *Nereide*, in which arose the novel question of international law, whether a neutral could lawfully lade his goods on board an *armed* enemy's vessel.

In the argument of this cause, his powers were severely tasked by rivalry, not only with his gifted competitor, Mr. Emmett, but with the counsel associated with him for the captors, Mr. Dallas, who, he said, had "dealt with this great cause in a way so masterly, and had presented it before the Court with such a provoking fulness of illustration, that his unlucky colleague could scarcely set his foot upon a single spot of it without trespassing upon some one of those arguments, which, with an admirable profusion, I had almost said, a prodigality of learning, he has spread over the whole subject. Time, however, which changes all things, and man more than any thing, no longer permits me to speak upon the impulse of ambition. It has left me only that of duty ; better, perhaps,

than the feverish impulse which it has supplanted ; sufficient, as I hope, to urge me, upon this and every other occasion, to maintain the cause of truth, by such exertions as may become a servant of the law in a forum like this. I shall be content, therefore, to travel after my learned friend over a part of the track which he has at once smoothed and illuminated, happy, rather than displeased, that he has facilitated and justified the celerity with which I mean to traverse it ; more happy still, if I shall be able, as I pass along, to relieve the fatigue of your Honors, the benevolent companions of my journey, by imparting something of freshness and novelty to the prospect around us.

“To this course I am also reconciled by a pretty confident opinion, the result of general study, as well as of particular meditation, that the discussion in which we are engaged has no claim to that air of intricacy which it has assumed ; that, on the contrary, it turns upon a few very plain and familiar principles, which, if kept steadily in view, will guide us in safety, through the worse than Cretan labyrinth of topics and authorities, that seem to embarrass it, to such a conclusion as it may be fit for this Court to sanction by its judgment.

“I shall, in the outset, dismiss from the cause whatever has been rather insinuated with a prudent delicacy, than openly and directly pressed by

my able opponent, with reference to the personal situation of the claimant, and of those with whom he is united in blood and interest. I am willing to admit that a Christian judicature may dare to feel for a desolate foreigner who stands before it, not for life and death indeed, but for the fortunes of himself and his house. I am ready to concede, that, when a friendly and a friendless stranger sues for the restoration of his all to human justice, she may sometimes *wish* to lay aside a portion of her sternness, to take him by the hand, and, exchanging her character for that of mercy, to raise him up from an abyss of doubt and fear to a pinnacle of hope and joy. In such circumstances, a temperate and guarded sympathy may not unfrequently be virtue.

“But this is the last place upon earth in which it can be necessary to state, that, if it be yielded to as a *motive of decision*, it ceases to be virtue, and becomes something infinitely worse than weakness. What may be the real value of Mr. Pinto’s claim to our sympathy, it is impossible for us to be certain that we know; but thus much we are sure we know, that, whatever may be its value in fact, in the balance of the law it is lighter than a feather shaken from a linnet’s wing, lighter than the down that floats upon the breeze of summer. I throw into the opposite scale the ponderous claim of WAR; a claim of high concernment. not

to us only, but to the world ; a claim connected with the maritime strength of this maritime state, with public honor and individual enterprise, with all those passions and motives, which can be made subservient to national success and glory in the hour of national trial and danger. I throw into the same scale the venerable code of universal law, before which it is the duty of this Court, high as it is in dignity, and great as are its titles to reverence, to bow down with submission. I throw into the same scale a solemn treaty, binding upon the claimant and upon you. In a word, I throw into that scale the rights of belligerent America, and, as embodied with them, the rights of those captors, by whose efforts and at whose cost the naval exertions of the government have been seconded, until our once despised and drooping flag has been made to wave in triumph where neither France nor Spain could venture to show a prow.

“ You may call these rights by what name you please. You may call them *iron* rights ; I care not ; it is enough for me, that they are RIGHTS. It is more than enough for me, that they come before you encircled and adorned by the laurels, which we have torn from the brow of the naval genius of England ; that they come before you recommended, and endeared, and consecrated by a thousand recollections which it would be base-

ness and folly not to cherish, and that they are mingled in fancy and in fact with all the elements of our future greatness.”

In the course of his argument, Mr. Pinkney insisted that the claimant's property ought to be condemned as prize of war upon the three following grounds ;

1. That the treaty of 1795, between the United States and Spain, contained a positive stipulation adopting the maxim of the northern confederacy, that *free ships shall make free goods*; and although it did not expressly mention the converse proposition, that *enemy ships should make enemy goods*, yet it did not negative that proposition; and as the two maxims had always been associated together in the practice of nations, the one was to be considered as implying the other.

2. That, by the Spanish prize-code, neutral property found on board of enemy's vessels was liable to capture and condemnation; and that, this being the law of Spain, applied by her when belligerent, to us and to all other nations when neutral, by the principle of reciprocity the same rule was to be applied to the property of her subject, which Mr. Pinto must be taken to be, the United States government not having at that time acknowledged the independence of the Spanish American colonies.

3. He contended, that the claim of Mr. Pinto

ought to be rejected on account of his unneutral conduct, in hiring and putting his goods on board of an armed vessel, which sailed under convoy and actually resisted search.

After fully discussing the first two points, he proceeded ;

“I come now to the third and last question, upon which, if I should be found to speak with more confidence than may be thought to become me, I stand upon this apology, that I have never been able to persuade myself that it was any question at all. I have consulted upon it the reputed oracles of universal law, with a wish disrespectful to their high vocation, that they would mislead me into doubt. But—*pia sunt, nullumque nefas oracula suadent*. I have listened to the counsel for the claimant, with a hope produced by his reputation for abilities and learning, that his argument would shake from me the sturdy conviction which held me in its grasp, and would substitute for it that mild and convenient skepticism that excites without oppressing the mind, and summons an advocate to the best exertion of his faculties, without taking from him the prospect of success, and the assurance that his cause deserves it. I have listened, I say, and am as great an infidel as ever.

“My learned colleague, in his discourse upon this branch of the subject, relied in some degree

upon circumstances, supposed by him to be in evidence, but by our opponents believed to be merely assumed. I will not rely upon any circumstances but such as are admitted by us all. I take the broad and general ground, which does not require the aid of such special considerations as might be borrowed from the contested facts.

“ I shall consider the case as simply that of a neutral, who attempts to carry on his trade from a belligerent port, not only under belligerent convoy, but in a belligerent vessel of force, with full knowledge that she has capacity to resist the commissioned vessels, and (if they lie in her way) to attack and subdue the defenceless merchant-ships of the other belligerent, and with the further knowledge, that her commander, over whom in this respect he has no control, has inclination and authority, and is bound by duty so to resist, and is inclined and authorized so to attack and subdue. I shall discuss it as the case of a neutral, who advisedly puts in motion, and connects his commerce and himself with a force thus qualified and conducted; who voluntarily identifies his commerce and himself with a hostile spirit, and authority, and duty, thus known to and uncontrollable by him; who steadily adheres to this anomalous fellowship, this unhallowed league between neutrality and war, — until, in an evil hour,

it falls before the superior force of an American cruiser, when, for the first time, he insists upon dissolving the connexion, and demands to be regarded as an unsophisticated neutral, whom it would be barbarous to censure, and monstrous to sit with penalty. The gentlemen tell us that a neutral may do all this! I hold that he may not, and if he may, that he is a 'chartered libertine,' that he is *legibus solutus*, and may do *any* thing.

"The boundaries, which separate war from neutrality, are sometimes more faint and obscure than could be desired; but there never were any boundaries between them, or they must all have perished, if neutrality can, as this new and most licentious creed declares, surround itself upon the ocean with as much of hostile equipment as it can afford to purchase, if it can set forth upon the great common of the world, under the tutelary auspices and armed with the power of one belligerent bidding defiance to, and entering the lists of battle with the other, and at the same moment assume the aspect and robe of peace, and challenge all the immunities which belong only to submission.

"My learned friends must bear with me if I say, that there is in this idea such an appearance of revolting incongruity, that it is difficult to restrain the understanding from rejecting it without

inquiry, by a sort of intellectual instinct. It is, I admit, of a romantic and marvellous cast, and may, on that account, find favor with those who delight in paradox ; but I am utterly at a loss to conjecture, how a well-regulated and disciplined judgment, for which the gentlemen on the other side are eminently distinguished, can receive it otherwise than as the mere figment of the brain of some ingenious artificer of wonders. The idea is formed by a union of the most repulsive ingredients. It exists by an unexampled reconciliation of mortal antipathies. It exhibits such a rare *discordia rerum*, such a stupendous society of jarring elements, or (to use an expression of Tacitus) of *res insociabiles*, that it throws into the shade the wildest fictions of poetry. I entreat your Honors to endeavor a personification of this motley notion, and to forgive me for presuming to intimate, that if, after you have achieved it, you pronounce the notion to be correct, you will have gone a great way to prepare us, by the authority of your opinion, to receive, as credible history, the worst parts of the mythology of the Pagan world. The Centaur and the Proteus of antiquity will be fabulous no longer.

“The prosopopœia, to which I invite you, is scarcely, indeed, within the power of fancy, even in her most riotous and capricious mood, when she is best able and most disposed to force incompati-

bilities into fleeting and shadowy combination, but, if you can accomplish it, will give you something like the kid and the lion, the lamb and the tiger portentously incorporated, with ferocity and meekness coexistent in the result, and equal as motives of action. It will give you a modern Amazon, more strangely constituted than those with whom ancient fable peopled the borders of the Thermidon, — her voice compounded of the tremendous shout of the Minerva of Homer, and the gentle accents of an Arcadian shepherdess, — with all the faculties and inclinations of turbulent and masculine War, and all the retiring modesty of virgin Peace. We shall have, in one personage, the *pharetrata Camilla* of the *Æneid*, and the Peneian maid of the *Metamorphosis*. We shall have Neutrality, soft and gentle, and defenceless in herself, yet clad in the panoply of her warlike neighbors, — with the frown of defiance upon her brow, and the smile of conciliation upon her lip, — with the spear of Achilles in one hand and a lying protestation of innocence and helplessness unfolded in the other. Nay, if I may be allowed so bold a figure in a mere legal discussion, we shall have the branch of olive entwined around the bolt of Jove, and Neutrality in the act of hurling the latter under the deceitful cover of the former.

“I must take the liberty to assert, that, if this be law, it is not that sort of law of which Hooker

sneaks, when, with the splendid magnificence of Eastern metaphor, he says, that 'her seat is the bosom of God, and her voice the harmony of the world.' Such a chimera can never be fashioned into a judicial rule fit to be tolerated or calculated to endure. You may, I know, erect it into a rule, and I shall, in common with others, do my best to respect it; but, until you do so, I am free to say, that in my humble judgment, it must rise upon the ruins of many a principle of peculiar sanctity and venerable antiquity, which it will be your wisdom to preserve and perpetuate."

After having thus spoken, as he said, in metaphors, which, if they would not bear the test of rigorous criticism, he trusted would at least be pardoned, upon the ground that they served to mark out and illustrate his more particular argument, Mr. Pinkney proceeded to consider the effect, which such a license to neutrals as that supposed might produce upon the unarmed trade of the opposite belligerent, and to establish its unlawfulness, both on general principles, and the particular analogies of judicial precedents. But it would be difficult to analyze, and impossible to abridge, this argument, which affords an adequate specimen of his peculiar powers as a forensic debater; and we must, therefore, content ourselves with subjoining the peroration to this admirable speech.

“The little strength with which I set out is at last exhausted, and I must hasten to a conclusion. I commit to you, therefore, without farther discussion, the cause of my clients, identified with the rights of the American people, and with those wholesome rules which give to public law simplicity and system, and tend to the quiet of the world.

“We are now, thank God, once more at peace. Our belligerent rights may therefore sleep for a season. May their repose be long and profound. But the time must arrive, when the interests and honor of this great nation will command them to awake, and, when it does arrive, I feel undoubting confidence, that they will rise from their slumber in the fulness of their strength and majesty, unenfeebled and unimpaired by the judgment of this high Court.

“The skill and valor of our infant navy, which has illumined every sea, and dazzled the master states of Europe by the splendor of its triumphs, have given us a pledge, which, I trust, will be dear to every American heart, and influence the future course of our policy, that the ocean is destined to acknowledge the future dominion of the west. I am not likely to live to see it, and therefore, the more do I seize upon the enjoyment presented by the glorious anticipation. That this dominion, when God shall suffer us to wrest it

from those who have abused it, will be exercised with such justice and moderation as will put to shame the maritime tyranny of recent time. and fix upon our power the affections of mankind, it is the duty of us all to hope ; but it is equally our duty to hope, that we shall not be so inordinately just to others as to be unjust to ourselves."

It is well known that Mr. Pinkney's argument was overruled by the Court, and the sentence of condemnation in the inferior tribunal reversed by a majority of the judges. It may be mentioned, however, as a remarkable example of the uncertainty of the so-called law of nations, as administered by belligerent prize-courts, that it should have been determined about the same time by Sir William Scott, that British captors were entitled to salvage for the recapture of neutral (Portuguese) property on board an *armed* British vessel, upon the ground, that the goods would have been justly liable to condemnation in our courts of admiralty.

Mr. Pinkney took a very decided and zealous part in the struggle between the rival political parties among his fellow-citizens, to which the war had given fresh activity. His direct agency in the negotiations by which our government sought to avoid this lamentable alternative, enabled him to bear conclusive testimony to its long-continued forbearance, and to the stern necessity, which at

last compelled it to resort to arms, in order to vindicate our national honor, rights, and interests.

Both his pen and his tongue were diligently employed, in moments of leisure snatched from professional occupations in the polemic warfare to which the struggle gave rise. He was frequently called upon to address the people at public meetings on the topics connected with it. He wrote numerous newspaper articles on the same subject, and embodied his views of it in a pamphlet addressed to the people of Maryland under the signature of *Publius*, which affords a very fair specimen of his style as a political controversialist. Nor did he shrink from the duty of contributing his share to the duty of defending the state against invasion, a duty from which no man in this country is exempt, and which he performed with characteristic alacrity.

Soon after the declaration of war, he was chosen to the command of a volunteer corps, raised in Baltimore for local defence, and attached to the third brigade of Maryland militia. At the time of the enemy's attack on the city of Washington, he marched with his corps to Bladensburg, and conducted with great personal gallantry in the inglorious action at that place, where he was severely wounded. Some time after the peace, having been elected a representative in Congress from

the city of Baltimore, he resigned his military command.

Soon after his election to Congress, a question of constitutional law, of the greatest public interest, arose in that body, which was discussed with much zeal and talent in both Houses. A commercial convention between the United States and Great Britain had been concluded at London in July, 1815, and subsequently ratified by the President and Senate, by which it was stipulated that the discriminating duties on British vessels and their cargoes, then subsisting under certain acts of Congress, should be abolished in return for a reciprocal stipulation on the part of the British government.

On this occasion, a bill was brought into the House of Representatives to carry the convention into effect, specifically enacting the provisions contained in the treaty itself. This bill was opposed by Mr. Pinkney, in an able and eloquent speech, exhausting the whole subject of discussion. He contended, with great force of reasoning, that both under the international code and our own municipal constitution, the treaty became the supreme law of the land, the instant it was ratified by the President and Senate on one side, and his Britannic Majesty on the other; that it had, *proprio vigore*, the effect of repealing all the laws of Congress which stood in the way of its stipulations; and required no confirmation by that

body to give it complete validity, as a law binding upon every department of the government and upon the whole nation.

The bill passed the House of Representatives, but was rejected in the Senate ; that body having passed a mere declaratory bill, enacting that so much of any act of Congress as was contrary to the stipulations of the convention, should be deemed and taken to be of no force or effect. Some further proceedings took place, and the disagreeing votes of the two Houses were at last reconciled by a committee of conference, at whose recommendation the declaratory bill was finally passed by the House of Representatives, and became a law by the approbation of President Monroe. A similar question had arisen during the administration of President Washington, as to the legislative provisions necessary to carry into effect the treaty of 1794 with England.

In the debate on this subject, the same doctrine was insisted on by the administration party as that now maintained by Mr. Pinkney ; — that, the constitution having provided, that all treaties made under the authority of the United States should be the supreme law of the land ; every treaty being, under the law of nations, an obligatory contract between the nations parties to it ; and the treaty in question having been ratified by the President, with the advice and consent of the

Senate, a refusal of the House of Representatives to provide the necessary means for carrying it into effect, would, consequently, be a violation of the treaty and a breach of the national faith with the power to whom that faith had been pledged.

On the other hand, it was contended by the opposition, that a treaty which required an appropriation of money, or any other special legislative provision to carry it into effect, was not, so far, of binding obligation, until Congress had adopted the measures necessary for that purpose. The House of Representatives, on this occasion, ultimately passed a resolution requesting the President to lay before them the instructions he had given to Mr. Jay, the minister by whom the treaty had been negotiated, with the correspondence and other papers, so far as they were not improper to be disclosed on account of pending negotiations. President Washington declined complying with this request, alleging that a treaty with a foreign power, when duly made by the President and Senate, became the supreme law of the land that the assent of the House of Representatives was not necessary to its validity; and therefore the papers requested could not properly be required for the use of the House, unless for the purpose of impeachment, which was not stated to be the object of the call. The House, therefore, passed resolutions disclaiming the power of interfering in

the making of treaties, but asserting its right whenever stipulations were made within the legislative competence of Congress, to deliberate and decide as to the expediency of carrying them into effect.

Such is certainly the practice in other constitutional governments,—as in England, where the commercial articles of the treaty of Utrecht with France, though duly made and ratified by the crown, remained unexecuted, because Parliament refused to pass the laws necessary to give effect to their provisions. So also in France, as we have seen by the recent example of the treaty of indemnities with the United States, the Chambers assert the right of controlling, by their votes, the appropriations of money, or other specific legislative provisions, which may be required to carry into effect treaties concluded by the crown with foreign powers.

In March, 1816, Mr. Pinkney was again called into the service of his country in a diplomatic capacity. In order to understand the motives which had repeatedly induced him to go abroad in the same service, it is necessary to advert to some of the peculiar circumstances connected with his brilliant success at the bar.

This success was as much the effect of extraordinary labor as of his genius and rare endowments of mind. His continued application to study,

writing, and public speaking, which a physical constitution, rivalling in strength his intellectual, enabled him to keep up with a singular perseverance, was one of the most remarkable features of his character. He was never satiated with investigating his causes, and took infinite pains in exploring their facts and circumstances, and all the technical learning connected with them. He constantly continued the practice of private declamation as a useful exercise, and was in the habit of premeditating his pleadings at the bar and other public speeches, not only as to the general order or method to be observed in treating his subject, the authorities to be relied on, and the leading topics of illustration, but frequently as to the principal passages and rhetorical embellishments. These last he sometimes wrote out beforehand; not that he felt himself deficient in facility or fluency, but in order to preserve the command of a correct and elegant diction.

All those who have heard him address a jury, or a deliberative assembly, well know, that he was a consummate master of the arts of extemporaneous debating. But he believed, with the most celebrated and successful orators of antiquity, that the habit of written composition is necessary to acquire and preserve a style at once correct and graceful in public speaking; which, without this aid, is apt to degenerate into colloquial negligence,

and to become enfeebled by tedious verbosity. His law papers were drawn up with great care ; his written opinions were elaborately composed, both as to matter and style, and frequently exhausted, by a full discussion, the questions submitted for his consideration.

If to all these circumstances be added the fact, that he engaged in the performance of his professional duties with unusual zeal, ever regarding his own reputation as at stake, as well as the rights and interests of his client, — and sensibly alive to every thing which might affect either, and that he spoke with great ardor and vehemence ; it must be evident, that the most robust constitution would not be sufficient to sustain such intense and unintermitted labor, where every exertion was a contest for victory, and each new success a fresh stimulus to ambition.

Those who are curious to see, to what extent of professional excellence such power of application, allied with such force of body and mind, may carry a man in a particular science, may regret that he ever wandered beyond the rugged paths of his profession into another field, for the cultivation of which he was not, perhaps, so liberally endowed by nature. It seems, however, that he found it necessary to vary his occupations, and to retire altogether from the bar for a season, in order to refresh his wearied body and mind, with the

purpose of again returning to it with an alacrity invigorated and quickened by this temporary suspension of his professional pursuits.

He was then induced to accept the appointment, tendered to him by President Monroe, of envoy to the court of Russia, and of special minister to that of Naples, the object of which last mission was, to demand indemnity from the restored government of that kingdom, for the losses sustained by our merchants in consequence of the seizure and confiscation of their property during the reign of Murat. After he had fulfilled the duties of the special mission, he was to proceed to St. Petersburg as minister plenipotentiary to that court. He avowed the motives which induced him to accept this double mission, in a conversation with one of his friends, in which he said, "There are those among my friends, who wonder that I will go abroad, however honorable the service. They know not how I toil at the bar; they know not all my anxious days and sleepless nights; I must breathe awhile; the bow for ever bent will break." "Besides," he added, "I want to see Italy; the orators of Britain I have heard; but I want to visit that classic land, the study of whose poetry and eloquence is the charm of my life; I shall set my foot on its shores with feelings that I cannot describe, and return with new enthusiasm, I hope with new advantages, to the habits of public speaking."

The business of his mission to Naples was completely evaded by the artifices of the Neapolitan court, who hastened his departure by pretences which they had no difficulty in laying aside when he was fairly out of Naples. His instructions did not allow him to wait even for an answer to the note he had presented to the minister of foreign affairs, and he proceeded through Rome, and the other principal Italian cities, to Vienna. From the latter capital, he pursued his way, through Poland, to Petersburg, where he remained about two years, attending to the duties of the mission, pursuing his favorite studies with unwearied alacrity, and at the same time cultivating the elegant society by which he was surrounded.

His peculiar personal habits were formed by his intercourse with the higher circles abroad. His personal neatness, and minute attention to dress, were carried to an extreme which exposed him, while at home, to the charge of foppery and affectation. But it should be remembered, how large a portion of his life he had spent in the higher circles of European society. Though he always piqued himself upon being a finished and elegant gentleman, yet his manners and habits of dress were undoubtedly acquired in Europe; and, so far from being remarkable there, they were merely in accordance with the common and established usages of men of his rank and station. All, whc

nave been at any of the European courts, know, that their public men consider it a necessary part of their character, to pay great attention to the elegance and refinements of life ; and, after a day, passed in the laborious discharge of their official duties, will spend their evenings in society, and contribute their full share of pleasant trifling. It is their *manière d'être*.

Mr. Pinkney returned from Russia in the summer of 1818, and once more resumed his professional habits and occupations with as much alacrity as if he had never left them. At the following session of the Supreme Court, he delivered, upon the question of the right of the States to tax the national Bank, perhaps his ablest and most eloquent forensic oration, the principles of which were adopted by Mr. Chief Justice Marshall, in delivering the judgment of the Court. In 1819, he was elected by the legislature of Maryland a Senator in Congress.

Soon after he took his seat in the Senate, he delivered his famous speech against the clause in the Bill passed by the House of Representatives, for the admission of Missouri into the Union, upon condition that the introduction of slaves into the new State should be prohibited. The question was finally settled by the House abandoning this clause, and substituting for it a provision pro-

hibiting slavery in the vacant territory to the north and west of Missouri.

In 1821, he made, in the Supreme Court, in the case of *Cohens* against the State of Virginia, an elaborate argument in favor of the appellate jurisdiction of the Court, in cases determined in the State involving the constitutionality of the laws and treaties of the Union. His reasoning in favor of the jurisdiction was adopted by the Court; and it has since been regarded as one of those points of constitutional law, which are most conclusively and satisfactorily established. Indeed, it is not easy to see, how the supremacy of the constitution and laws of the Union could be peaceably maintained against the inroads of jarring State legislation, without the exercise of this jurisdiction by the supreme federal tribunal, which is also essential to preserve that uniformity of interpretation, without which our complicated system of government would soon become a mere chaos of conflicting authorities.

Mr. Pinkney continued his professional labors at the session of the Court in 1822, with the same intense application and burning thirst of professional fame, which had marked his splendid career. He also took a part in the preliminary discussions at the Senate upon the bill for establishing uniform laws of Bankruptcy throughout the Union, an ob-

Washington Thursday night

The Bill for the Amendment of
Preparative the Uniformed Soldiers
and Flawing may be considered as
lost. - The Bill was voted up this
morning to the Senate with the 107 Yeas
as to Flawing. - The Senate voted to amend
it is striking out the 20th section (27. to 15)

Wm. A. Bailey

ject which he had much at heart. He prepared himself for the debate upon the Maryland proposition, relating to the appropriation of the public lands belonging to the United States for the purposes of education.

But his busy life was hurrying to a conclusion. He had exerted himself intemperately in the preparation and argument of a cause of peculiar interest, at a time when the state of his health unfitted him for application to study and business. On the 17th of February, he was attacked by a severe indisposition, doubtless produced by this effort. He mentioned to the writer of this sketch, that he had sat up very late in the night on which he was taken ill, to read Scott's romance of the "*Pirate*," then just published, and made many remarks respecting it, — drawing comparisons between the two heroines, and criticizing the narrative and style with his usual confident and decided tone, and in a way which showed that his imagination had been a good deal excited by the perusal.

From this period, till his decease, he was a considerable part of the time in a state of delirium. In his lucid intervals, his mind reverted to his favorite studies and pursuits, on which, whenever the temporary suspension of his bodily sufferings enabled him, he conversed with great freedom and animation. He seems, however, to have anticipated that his illness must have a fatal termination,

and to have awaited the event with patient fortitude. After a course of acute suffering, he breathed his last on the night of the 25th of February. His funeral was honored by the attendance of the members of both Houses of Congress, of the executive government, the judges and bar of the Supreme Court, and a numerous concourse of citizens, with all those marks of reverential sorrow and respect due to the character and eminent station of the deceased.

At his death, he had not quite completed his fifty-eighth year, an age at which men begin to regard the termination of life, as an object not very remote. But his person was yet robust, his complexion florid, and his general appearance such, aided as it was by the studied carefulness of his toilet, as to give a strong impression of vigorous health and tenaciousness of life. The force of his faculties too, which were not only unimpaired, but seemed only then to have attained full ripeness; the brilliancy of a career, in which, though so long a victor, he was every day winning fresh laurels by fresh exertions; the very keenness of his relish for those gathered fruits of his fame, and for the charms of a life so eminently successful; all these as they seemed to promise a long postponement of the common doom, rendered it more deeply affecting to the imagination when it thus suddenly arrived. Apparently, however, he did not himself

regard the seeds of his fate as so far from their developement.

His sanguine temperament and plethoric habit of body led him to apprehend a sudden decay of life, or, at least, of his faculties; and he has been heard to speak of the fate of that celebrated lawyer, Luther Martin, as not unlikely to be his own in this particular. He was spared, however, the worst of the maladies of age. He did not linger through those melancholy displays of imbecility, which are caused by the receding tide of life, but seemed to rush to the termination of his course the busy torrent dashes onward to the sea.

His death produced, both in the metropolis and through the country, a deep and remarkable sensation. We call it remarkable, because it is seldom that mere professional renown, disconnected as it is from popular passion, obtains for itself, in so great a degree, this last and melancholy reward of genius. Nor can we impute it, certainly, even in the case of the remarkable individual in question, distinguished as were his services at the bar, in the Senate, and in foreign affairs, to any fear that the active business of the world would suffer any pause from his death. The theatre of *busy* life never wants actors, and few are they who may flatter themselves, that their exit will produce either disorder or vacancy in the scene. These losses of society are soon repaired. Other talents,

till then crowded from the stage, press forward in the eager competition; and we daily see the tomb close on virtue and genius, with as little perceptible effect on the great social machine, as on the sun and the breeze, which are feigned, in the elegiac strains of the poet, to darken and sigh over their decay.

We must refer, then, to some other source our strong emotion on the death of one of these intellectual heroes. Perhaps the harsh contrasts, always suggested by death, are heightened by the mental power and activity, which belong to genius. We contemplate with pain the sudden extinction of this subtle spirit, now become insensible to its slow-won honors, and incapable of dispensing the gathered treasures of thought and knowledge. There was something astounding in the hasty close of a career, marked, like Mr. Pinkney's, by such untiring energy to the last, and animated by the consenting applauses of partisan friends and rival competitors.

Few men ever earned those "garlands of the tomb" by a more inflexible pursuit of them through a long life. In him the zeal of reputation was not one of many impulses obeyed by turns, and exciting him at intervals to unusual exertion. It was ever present and predominant, urging him, even more than the appetite of knowledge, to the perpetual increase of his intellectual

stores. His emulation was boundless. "I never heard him allow," said a friend of his, "that any man was his superior in any thing ; in field sports, in music, in drawing ; and especially in oratory, on which his great ambition rested."

Towards the end of his life, he devoted himself almost exclusively to intellectual exertion of some kind. "Thought," to borrow the phrase of one who knew him well, "appeared to be the very breath of his mind." Study was necessary to his spirit, and so far from laborious, that when not engaged in it, or in some active corporeal exercise, he evinced very restless and uneasy feelings. On journeys, he read constantly in his carriage, and even studied his causes there. A life thus wholly "dedicated to closeness and the bettering of his mind," did not require that methodical distribution, which inferior intellects resort to, as a substitute for the power of constant application ; nor did his various engagements permit this rigorous adherence to method.

His hours of study varied according to circumstances ; but they increased progressively with age. He slept little, and always with a light in his chamber ; and might be heard stirring there at the earliest dawn, often retiring to bed again after several hours' reading. He ate rapidly, drank wine freely at his meals, but never sat long at table, except on special occasions ; and could retire

at all times to his study with a mind disposed to severe labor.

Having already anticipated most of the particulars, which must be combined in order to form a just estimate of the eminent person, of whom we have endeavored to collect a few scattered traits, we will not detain the reader by attempting to blend them into a studied portrait. In tracing the principal outlines of his public character, his professional talents and attainments must necessarily occupy the most prominent place. To extraordinary natural endowments he added deep and various knowledge in his profession. A long course of study and practice had wedded him to the science of jurisprudence. His peculiar intellectual powers were most conspicuous in this science, and his principal labors as a legislator were on topics connected with it.

He had felt himself originally attracted to its study by that invincible inclination, and that strong instinct, which point genius to its true vocation ; it was his main pursuit in life ; and he never entirely lost sight of it in his occasional deviations into other pursuits and employments. The lures of political ambition and the charms of polished society, or, perhaps, a vague desire of universal accomplishment and general applause, might sometimes tempt him to stray for a season from the path, which the original bent of his genius had

assigned him. But he ever returned, with fresh ardor and new delight, to his appropriate vocation. He was devoted to the law with a true enthusiasm; and his other studies and pursuits, so far as they had a fixed and serious object, were valued chiefly as they might minister to this idol of his affections. It was in his profession, that he found himself at home; in this consisted his pride and his pleasure; for, as he said, "the bar is not the place to acquire or preserve a false or fraudulent reputation for talents," and on that theatre he felt conscious of possessing those powers, which would command success.

Even when abroad, he never entirely neglected his legal studies. But when at home, and actively engaged in the practice of his profession, he toiled with almost unparalleled industry. All other pursuits, the pleasures of society, and even the repose which nature demands, were sacrificed to this engrossing object. His character, in this respect, affords a bright example for the imitation of the younger members of the profession. This entire devotion to his professional pursuits was continued, with unremitting perseverance, to the end of his career. If the celebrated Talon could say of the still more celebrated D'Aguesseau, on hearing his first speech at the bar, "that he would willingly *end* as that young man *commenced*," every youthful aspirant to forensic fame among us

might wish to begin his professional exertions with the same love of labor, and the same ardent desire of distinction, which marked the efforts of William Pinkney throughout his life.*

This intense application and burning ambition continued to animate his labors to the last moments of his existence. He continually held up the very highest standard of excellence in this noble career, and pursued it with unabated diligence and zeal, keeping all his faculties continually upon the stretch, as if his entire reputation was staked upon each particular exertion. He guarded with anxious and jealous solicitude the fame thus acquired. The writer well remembers in the last, and one of his ablest pleadings, in the Supreme Court, remonstrating with him upon the necessity of his refraining from such laborious efforts in the actual state of his health, and with what vehemence he replied, "That he did not desire to live a mo-

* "M. D'AGUESSEAU avait fait le premier essai de ses talens dans la charge d'Avocat au Châtelet, où il entra à l'âge de vingt-un ans ; et quoiqu'il ne l'eût exercée que quelques mois, son père ne douta pas qu'il ne fût pas capable de remplir une troisième charge d'Avocat-Général au Parlement, qui venait d'être créée. Il y parut d'abord avec tant d'éclat, que le célèbre DENIS TALON, alors Président à Mortier, dit *qu'il voudrait finir comme ce jeune homme commençait.*" — *Abrégé de la Vie de M. le Chancelier d'Aguesseau.*

ment after the standing he had acquired at the bar was lost, or even brought into doubt or question."

What might not be expected from professional emulation, directed by such an ardent spirit and such singleness of purpose, even if sustained by far inferior abilities! But no abilities, however splendid, can command success at the bar, without intense labor and persevering application. It was these, which secured to Mr. Pinkney the most extensive and lucrative practice ever acquired by any American lawyer, and which raised him to such an enviable height of professional eminence. For many years, he was the acknowledged head of the bar in his native State; and, during the last ten years of his life, the principal period of his attendance in the Supreme national court, he enjoyed the reputation of having been rarely equalled, and perhaps never excelled, in the power of reasoning upon legal subjects. This was the faculty, which most remarkably distinguished him.

His mind was acute and subtile, and at the same time comprehensive in its grasp; rapid and clear in its conceptions, and singularly felicitous in the exposition of the truths it was employed in investigating. He seemed to have an unlimited command of the greatest variety of the most beautiful and appropriate diction, and the faculty of adorning the driest and most unpromising subjects. His style does not appear to have been originally

modelled after any particular standard, or imitated from the example of any particular writer or speaker. It was apparently formed from his peculiar manner of investigating and illustrating the subjects with which he had to deal, and was impressed with the stamp of his vigorous and comprehensive intellect. When it had received all the improvement, which his maturer studies and experience in the practice of extemporaneous and written composition enabled him to give it, his diction more nearly approached to the model of that pure, copious, and classical style, which graced the judicial eloquence of Sir William Scott, than to any other known standard. It had somewhat more of amplitude, and fulness, and variety of illustration, and of that vehement energy, which is looked for in the pleadings of an advocate, but which would be unbecoming the judgment-seat. It also borrowed occasionally the copiousness, force, and idiomatic grace, with the boldness and richness of metaphor, which distinguish the elder writers of English prose. But, in all its essential qualities, Mr. Pinkney's style was completely formed long before he had the advantage of studying any of these models of eloquence. The fragments of his works, which have been published,*

* See "Some Account of the Life, Writings, and Speeches of William Pinkney. By Henry Wheaton. 1826."

will enable the reader to form some judgment both of its characteristic excellences and defects.

After all, the great fame of his eloquence must rest mainly on tradition, as no complete memorials of his most interesting speeches at the bar, or in the Senate, have been preserved. Much of the reputation of an orator depends upon those glowing thoughts and expressions, which are struck out in the excitement and warmth of debate, and which even the speaker himself is afterwards unable to recover. Most of the poetry of eloquence is of this evanescent character. The beautiful imagery, which is produced in this manner from the excitement of a rich and powerful mind, withers and perishes as soon as it springs into existence. The attempt to replace it by rhetorical ornament, subsequently prepared in the cold abstraction of the closet, is seldom successful. Hence, some portions of Mr. Pinkney's speeches, which were begun to be written out by himself with the intention of publishing them, will be found, perhaps, to be somewhat too much elaborated, and to bear the marks of studied ornament and excessive polish.

The writer is, however, enabled to assert from his own recollection, that, whilst they have certainly lost in freshness and vigor by this process, in no instance have these more striking passages been improved in variety and richness of ornament, or splendor of diction. Indeed, he often

poured forth too great a profusion of rhetorical imagery in extemporaneous speaking. His style was frequently too highly wrought and embellished and his elocution too vehement and declamatory for the ordinary purposes of forensic discussion. But whoever has listened to him even upon a dry and complicated question of mere technical law, where there seemed to be nothing on which the mind delighted to fasten, must recollect what a charm he diffused over the most arid and intricate discussions by the clearness and purity of his language, and the calm flow of his graceful elocution, which seemed only to chafe, and swell, and over leap its natural channel, when encountering some mightier theme.

His favorite mode of reasoning was from the analogies of law, tracing up its technical rules to their original principles and historical sources. He followed the precept given by Pliny, and *sowed his arguments broad-cast*, amplifying them by every variety of illustration of which the subject admitted, and deducing from them a connected series of propositions and corollaries, gaining in beautiful gradations on the mind, and linked together by an adamant chain of reasoning.

Of the extent and solidity of his legal attainments, it would be difficult to speak in adequate terms, without the appearance of exaggeration. He was profoundly versed in the ancient learning

of the common law, its technical peculiarities, and feudal origin. Its subtile distinctions and artificial logic were familiar to his early studies, and enabled him to expound with admirable force and perspicuity the rules of real property. He was familiar with every branch of commercial law ; and super-added, at a later period of his life, to his other legal attainments, an extensive acquaintance with the principles of public law and the practice of the prize-courts. In his legal studies, he preferred the original text writers and reporters, (*e fontibus haurire*,) to all those digests, abridgments, and elementary treatises, which lend so many convenient helps and facilities to the modern lawyer, but which he considered as adapted to form sciolists, and to encourage indolence and superficial habits of investigation. His favorite law-book was the Coke-Littleton, which he had read many times. Its principal texts were treasured up in his memory, and his arguments at the bar abounded with perpetual recurrences to the principles and analogies drawn from this rich mine of common law learning.

Different estimates have been made of the extent and variety of his merely literary accomplishments. He was not what is commonly called a learned man ; but he excelled in those branches of human knowledge, which he had cultivated as auxiliary to his principal pursuit. Among his other accomplishments, (as has been before noticed,) he

was a thorough master of the English language, its grammar and idiom, its terms and significations, its prosody, and, in short, its whole structure and vocabulary. Speaking with reference to any high literary standard, his early education was defective. He had doubtless acquired in early life some knowledge of classical literature, but not sufficient to satisfy his own ideas of what was necessary to support the character of an accomplished scholar.

He used to relate to his young friends an anecdote, which explains one of the motives which induced him, at a mature age, after he had risen to eminence, to review and extend his classical studies. It illustrates, at the same time, one of the most remarkable traits of his character, that resolution and firmness of purpose, with which he devoted himself to the acquisition of any branch of knowledge he deemed it desirable to possess. During his first residence in England, some question of classical literature was discussed at table in a social party where he was present, and the guests, in turn, gave their opinions upon it. Mr. Pinkney being silent for some time, an appeal was made to him for his opinion, when he had the mortification of being compelled to acknowledge that he was unacquainted with the subject. In consequence of this incident he was induced to resume his classical studies, and actually put himself under the care of an instructor for the purpose

of reviewing and extending his acquaintance with ancient literature.

The acquisition of such knowledge may be recommended, and no doubt was sought by him for a higher purpose than merely completing the circle of liberal accomplishments. He never after neglected to cultivate attainments which he found so useful in enlarging his knowledge of his own language, improving his taste, and strengthening and embellishing his forensic style. Attempts have recently been made, unduly to depreciate the utility of classical learning; and certainly the expediency of devoting so large a portion of time as is allotted to the acquisition of the languages of Greece and Rome in the education of the higher classes in England, and of all classes in Germany, may well be questioned.

But in this country, at least, there is no fear that our youth will be saturated with classical learning, so as to leave neither time nor capacity for the acquisition of other knowledge more directly useful in the active business of life. The discipline of the mind, and the cultivation of the taste, in the earlier period of youth, is best promoted by the study of languages. "The memory is then more susceptible and tenacious of impressions; and the learning of languages being chiefly the work of memory, it seems precisely fitted to the powers of this period, which is long enough,

too, for acquiring the most useful modern, as well as ancient languages.”* And we may add, that the bright examples of ancient virtue, and the perfect models of ancient taste, are best studied in the originals. That generous love of freedom, of fame, and of country, which was the animating soul of the Greek and Roman republics, cannot be too early imbibed by the youth of every free state. Whilst they are taught duly to estimate the more wise and perfect organization of modern societies, they should be warmed and cheered with those noble sentiments which illumine the pages of the eloquent writers of antiquity, which are the best fruits, and, at the same time, the surest preservatives of liberal institutions.

During the whole course of his active and busy life, Mr. Pinkney pursued his professional studies, and those connected with the English language and literature, with the strictest method and the most resolute perseverance. In other respects, he seems to have read in the most desultory manner possible; in such a way, perhaps, as any man would be likely to pursue, who, with a vigorous intellect and a disposition to industry, had no very precise object before him but to gratify his curiosity and to keep pace with the current literature of the day.

* JEFFERSON'S *Notes*, Query XIV

His tenacious memory enabled him to retain the stores of miscellaneous knowledge he had thus acquired. His mind was enriched with literary and historical anecdote, which constituted the principal interest of his conversation, the charm of which was heightened by the facility and habitual elegance of his colloquial style. Among the modern English classics, Johnson and Gibbon were his favorite prose writers, chiefly, perhaps, because he thought their elaborate and elevated rhetorical style proper models for an orator. Pope and Milton were his chosen poets. In the copy of the last, in the possession of his family, all the remarkable passages are underlined, and he quoted them with readiness from memory. *Cornus* he distinguished as the best sustained of English poems, in the elegant and various felicity of its diction, and was fond of reciting aloud the passages which he deemed most remarkable for harmony and beauty of thought and expression.

He piqued himself on his critical knowledge of the elegances of his own tongue ; and, though he may have overrated his taste, his knowledge on this point was confessedly minute and extensive. His table was generally furnished with half a dozen works on prosody, and as many dictionaries ; and he frequently indulged himself in a fancy for coining new words, or reviving obsolete ones, and then defending them by analogy, or by

the authority of the classics. Of his *euphuism*, for so we may call it, which he sometimes displayed at the bar, to the annoyance of his less *literate* brethren, he left a somewhat diverting record. It is a copy of a bulky dictionary published some years ago in this country, all grievously underscored, and full of marginal remarks, petitions, and interrogatories addressed to the author, written with playful spleen, and craving to know the reason of the multifarious impurities which he had cast into the "well of English undefiled."

He possessed, in an eminent degree, that robustness of constitution, which is hardly less necessary in study, than Napoleon deemed it in war. His recreations were mostly of that sort deemed favorable to bodily health; he was attached to field sports, and excelled in them; and, though he seemed almost indefatigable, generally returned from his sporting excursions overcome with fatigue. But as he was of a sanguine and melancholy temperament, he was apt to fancy himself ill. At such times, he diverted himself with games of skill, in which he was a proficient, such as chess, draughts, and the like. He was once quite a capital billiard-player, and seldom met his equal in whist.

During his residence in England, he amused himself very much with his children, who were then young, mixing occasionally in their most

childish sports. He used there to draw for one of his sons almost every night, and, what perhaps few persons know, he handled the pencil like a master. He assisted, moreover, in teaching one of his daughters music, to which task he brought a good deal of skill and an admirable ear. He was fond of the best novels, and, by way of mental dissipation, sometimes liked to hear the worst, and, when exhausted in mind, or depressed in spirits, would listen to any trash from the Minerva press, French novels, and fairy tales. The company of young persons, especially those of talent, was very attractive to him; and, when occasion presented itself, he was pleased to do them any service. When they were assembled in his house, he would saunter from his study to the adjoining parlor, mingle in the topic or the jest of the moment, and then return. This he would repeat many times in an evening.

Whether he was endowed by nature with those large and comprehensive views, and that extensive knowledge of mankind, which constitute the essential qualities of a great statesman, and which would have fitted him to take a leading part in the political affairs of his country, and to guide its public councils in those moments of difficulty, when "a new and troubled scene is opened, and the file affords no precedent," — is a question which we have no adequate means of determining. His

diplomatic correspondence will show, indeed, that he was perfectly competent to maintain his own reputation for general talent, and to acquit himself in a manner creditable to his country, when brought in contact with the ablest and most practised of European statesmen,—with a Canning and a Wellesley. But that correspondence bears evident marks, throughout, of the constraint imposed upon it by the nature of his instructions from our government, which forbade him from replying to the sarcastic taunts and affected indifference of those haughty ministers, in other than those conciliatory terms, which, both at home and abroad, were unhappily mistaken for the effects of fear of provoking hostilities between the two countries.

It is principally in his private correspondence with President Madison, that we perceive how capable Mr. Pinkney was of appreciating the mighty scenes which were then passing before him, and the characters and motives of the actors, who, intent upon the great European drama, disdained to consider what might be the consequences of calling into existence another naval power capable of contesting that supremacy, which England had acquired on the ocean. He rightly concluded, that it was not by appeals to her justice or her policy, but by fairly wrestling with her on her own element, that England could be taught to respect us.

But, as has been before observed, his profession was the engrossing pursuit of his life ; and beyond that, his talents shone most conspicuously in those senatorial discussions, which fall within the province of the constitutional lawyer. In the various questions relating to the interpretation of the federal constitution, discussed in the Supreme Court, his depth of learning and powers of reasoning contributed very much to enlighten its judgments. In the discussion of that class of causes, especially, which, to use his own expressions, “ presented the proud spectacle of a peaceful review of the conflicting sovereign claims of the government of the Union and the particular States, by this more than Amphictyonic council,” his arguments were characterized by a fervor, earnestness, gravity, eloquence, and force of reasoning, which convinced all who heard him that he delivered his own sentiments as a citizen, and was not merely solicitous to discharge his duty as an advocate. He exerted an intellectual vigor proportioned to the magnitude of the occasion. He saw in it “ a pledge of the immortality of the Union, of a perpetuity of national strength and glory, increasing and brightening with age, of concord at home, and reputation abroad.”

As to the general nature and operation of our federative system, he thought with the illustrious authors of the Letters of PUBLIUS,

with Madison, Jay, and Hamilton,—that, like other similar forms of government recorded in history, “its tendency was rather to anarchy among the members, than tyranny in the head,” and that a general government, at least as energetic as that intended to be established by the framers of the constitution, was indispensably necessary to secure the great objects of the Union.

Believing these to be, generally speaking, in more peril from excessive jealousy on the part of the respective members of the confederacy, than from encroachments by the central government, he carried the weight of his support to that side of the vessel of state which he thought to be in danger of losing its equipoise. Absolute unanimity is not to be expected on questions of such intrinsic difficulty as spring up on the debatable ground, which imperfectly marks the boundaries between the State and national sovereignties. Still less is it to be looked for in the discussion of such controversies as that arising from the admission of the State of Missouri into the Union, where so many deep-seated prejudices and passions mingled in the debate, and a contest for political power and claims of private interest were involved in the result. That mighty tempest at one time seemed to shake the Union to its centre, and, in the language of Mr. Pinkney, threatened to “push from its moorings the sacred ark of the common safety,

and to drive this gallant vessel, freighted with every thing dear to an American bosom, upon the rocks, or lay it a sheer hulk upon the ocean." The agitation of the billows has not yet subsided; and a distant posterity will alone be capable of pronouncing an impartial judgment upon the merits of a question, complicated of so many considerations of humanity, of policy, and of constitutional power.

But a spirit of liberality may even now tolerate an honest difference of opinion on such a subject. It should be the part of the wise and the good to pour oil over this angry sea, to endeavor to calm the passions excited by that discussion, rather than to revive them in new shapes still more portentous to the peace and happiness of our country. Whatever difference of opinion may exist as to the part which Mr. Pinkney took in this question, all unprejudiced minds ought, we think, to concur in the sentiment expressed by him at the close of his speech in the Senate on that memorable occasion.

After alluding to the ambitious motives which were imputed to some of those engaged in this controversy, he added; "For myself I can truly say, that I am wholly destitute of what is commonly called ambition. It is said that ambition is the disease of noble minds. If it be so, mine must be a vulgar one; for I have nothing to desire in this world but professional fame, health and

competence for those who are dear to me, a long list of friends among the wise and the virtuous, and honor and prosperity for my country. But, if I possessed any faculties, by the exertion of which, at a moment like the present, I could gain a place in the affectionate remembrance of my countrymen, and connect my humble name with the stability of the American Union by tranquillizing the alarms which are now believed to endanger it, I know of no reward on this side the grave, save only that of an approving conscience, which, put in comparison with it, I should think worthy of a sigh, if lost ; of exultation, if obtained." *

* The materials for this memoir have been drawn from the author's larger work, entitled "Some Account of the Life, Writings, and Speeches of William Pinkney"; and also from an article on that work in the North American Review.

THE END.

